

# **Memoirs of Elisha Oscar Crosby; reminiscences of California and Guatemala from 1849 to 1864. Edited by Charles Albro Barker**

ELISHA OSCAR CROSBY

Memoirs OF ELISHA OSCAR CROSBY REMINISCENCES OF CALIFORNIA AND  
GUATEMALA FROM 1849 TO 1864

*Edited by* Charles Albro Barker

The Huntington Library, *San Marino, California*

1945

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*Printed by*

ANDERSON & RITCHIE: THE WARD RITCHIE PRESS

*Los Angeles*

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## Introduction

THE manuscript “Memoirs and Reminiscences” of Elisha Oscar Crosby, forty-niner, California lawyer and public figure, and United States diplomat in Central America, are here published for the first time. The original copy has been the property of the Huntington Library for twenty-two years. Comparison with other Crosby manuscripts in and out of the Library suggests to the point of certainty that this is a parent document, a source or literary depository, in which Crosby first put down the reminiscences of forty-five years, and from which he and others have since drawn and redone fragments of California history.\* Only one of these fragments has found its way to available publication entire,\* and that, an account of the adoption of the state constitution of 1849, represents

but one of the several areas of public interest in Crosby's life. Thus the *Reminiscences* tell a new story, almost from first to last.

The "Memoirs and Reminiscences" were purchased from Mr. Boutwell Dunlap of San Francisco, in 1922. They are listed in the Library's collections as HM 284. See the Bibliographical Note below (p. xxiii) regarding the character and location of other Crosby items.

The printed memoir is "The First State Election in California," *Quarterly of the Society of California Pioneers* (San Francisco), V (1928), 65-75.

The writer has very little to say directly about himself. From his silences, a reader would never know that he was a family man, responsible not only for his own but also for his dead brother's dependents. Yet he does reveal himself indirectly. He could hardly have lived differently from the way in which he wrote about his life—with zest, with intelligence, with sufficient detachment to appreciate men and events quite foreign to his earlier experience, and with sufficient earnestness to make and to defend large judgments of public morality and policy. He made his observations in important places—in New York, in California during and after the gold rush, and, as minister of the United States commissioned by Lincoln, in Guatemala City. x Although at no time a man of great prominence or power, he was for at least thirteen or fourteen years very active in affairs, and his *Reminiscences* open new views into the life of California, into state-making, into land policy, into the conditions and politics of Central America, and into the Negro and Caribbean policies of the United States at the crucial moment of the first Republican victory and descent into Civil War.

The *Reminiscences* below have many of the virtues of autobiography: they are concise, they have movement, definiteness, and organization. Their principal faults are a lack of completeness and a lack of finish, and occasionally they are inaccurate in detail. A rewriting would have raised them into a higher literary class, and a checking would have made them a better historical source. But these deficiencies are easy to forgive: Crosby wrote and was assisted in writing when, at about the age of sixty, he had almost lost the use of his eyes. He knew that he could not do a perfect job, but he wrote anyway.\* We are lucky to have the *Reminiscences* at all, to know the important things he had to say, and to enjoy the stories which he plainly loved to tell. Not the least informing section of the manuscript, indeed, is that marked "Anecdotal Scraps," at the end. Here the writer treats us to a collection of California yarns from the early years of his residence. As they have to do with the

women of San Francisco and the mining country and with the law courts, some of them are from the agreeable borderland between stories which are always tellable and those which are sometimes tellable. This section is a sort of autobiographical dessert to top off the heavier, seasoned fare of the body of the *Reminiscences*.

He says nothing of this in the *Reminiscences*. But in a letter of April, 1880, he described his method of writing. He himself managed to do a rough, pencil draft, and then others copied it in ink. He recognized that he could not prevent the occurrence of little errors. In this letter he attributed the impairment of his vision to overwork, and dated the occurrence of the trouble in 1877. (Manuscript copy, letter to Mrs. Caroline M. Roberts, California Historical Society.) See the biographical sketches in M. W. Wood and S. P. Munro-Fraser, *History of Alameda County, California* (Oakland, 1883), pp. 869-71; and *The Bay of San Francisco* (Chicago, 1892), II, 108-112.

Crosby was born a York State Yankee, in 1818. His home lay on the south-central edge of the Finger Lake country, not far from Ithaca and Cortland. This beautiful land prospered in the years of his childhood, as settlement increased and as it profited from the boom traffic of the country's main avenue west, along the Erie Canal. Yet Crosby was one of seven farm children, and his family's "moderate circumstances" did well to afford for him an academy education, and a start in legal training in the offices of attorneys of the state. This training he completed with his uncle, in the city of Buffalo, in 1843. At twenty-five he had been fully admitted to the practice of law, and he was ready for whatever career might come.

His own account of these beginnings is very brief; there is only a little about his family, his activities, and his interests. Even so, the *Reminiscences* are suggestive. One visualizes a young man of a century ago, who has had the energy and character to take advantage of the good resources of democratic, rural, central New York. He has seen something also of life in a rising commercial and industrial city, and has found professional advantage there. His father and uncle have helped him but not made him, and he has somewhat self-consciously taken the "first plunge into the great world to begin the battle of life." The picture is a conventional one, and it is thoroughly attractive.

The next stage is less clear. For reasons and under circumstances which he does not bother to explain, Crosby went to New York. He simply says that in the fall of 1843 he "formed a connection with Abner Benedict in the practice of law." Benedict was an elderly man with an office on Wall Street; in five years of association with Crosby he let the burden of work fall on the young man;

his clients included Aspinwall and Howland, partners at the head of the Pacific Mail Steamship Company, which in 1848 opened by way of Panama the only fast and easy transportation to California and Oregon prior to the building of the transcontinental railroad. Whether by the development of marked professional ability, or by the luck of his position as the young partner of a retiring Wall Street lawyer, or by some other reason or a combination of reasons, Crosby's xii years between twenty-five and thirty in New York measure the difference between a greenhorn in his profession and a young lawyer with connections, recognition, and preference. The plain signpost of the spread of his activities and importance is to be found in his departure from New York to California, on Christmas Day, 1848.

At this point, the *Reminiscences* become more leisurely and less compact, and Crosby takes a dozen pages to describe the two-month, two-ocean trip which brought him into San Francisco on the first steam vessel to enter the port. In 1887, addressing an audience of California patriots, Crosby was to say bluntly that, "I took the California fever bad."<sup>\*</sup> But in the *Reminiscences* the event is more complicated than that, and his story becomes an unusually informing case study of the causes and conditions of a professional man's emigration. He had overworked and planned a winter vacation in Cuba; President Polk's submitting to Congress Governor Mason's account of California gold, December 5, 1848, did indeed raise his temperature; and, he says, "Mr. Benedict as well as Messrs. Howland and Aspinwall said to me, 'Go on to California. You can just as well go there and let us know about this; see whether those fellows out there are humbugging us.'" Thus the line of his personal history leads direct from business connections in New York City to his sudden decision to go among the very earliest in the gold rush to California. Those same connections explain the preferred treatment he received in Panama, where he was allowed hammock space on the side-wheeler "California," which had just passed around Cape Horn and up the west coast of South America and was now on her maiden run, crowded far beyond capacity with the unexpected swarm of gold-seekers, from Panama to San Francisco. On arrival he slept in the office of the alcalde, not in comfort, but not outdoors under a packing box as did some of his fellow voyagers; and when he went to the gold country he went as an observer, lawyer, and business man, not as a miner. xiii His individual interests were thus different from those of the great numbers of California immigrants,

but his travels and observations were of the common lot, and he tells an extraordinarily interesting story of sea-voyage, crossing the isthmus by dugout, muleback, and afoot, and of California in 1849.

Crosby, "Early California" (Address before Alameda Parlor No. 47, Native Sons and Daughters of the Golden West), June 13, 1887 (HM 282).

The twelve years and a little more between his arrival in San Francisco and his arrival in Guatemala City Crosby discusses, not in autobiographical annals but rather in a connected series of four autobiographical essays, each of which deals with a phase of his California life. The first is one of description and decision to remain: it is a projection of his intention to discover whether or not the people of California were "humbugging" the rest of the world. To Crosby California was no humbug. The climate was right, and his health was gaining. The Wall Street office had been good, but it had never been as exciting or as profitable as the first California law case into which he stumbled at Sutter's Fort. To avoid injuring his client's feelings he accepted fees amounting to three thousand dollars in gold, and then the gift of a fine riding-horse fully equipped with California trappings, all for a few days' work. The California fever now took hold. His descriptions mirror the excitement of 1849: he saw Sam Brannan and the diggings at Mormon Island; he visited James Marshall and had from him a firsthand description of the discovery of gold; with a partner he founded a town, made money on lots, and then saw it washed away and Marysville succeed it. But the fever did not cause him to lose his head. His accounts of profit and loss are told with the same humor as his account of escorting Thomas Butler King in the mining country. He stuck to his last, and did not forget that he was a lawyer and a man of mind and obligation.

The second and third essays deal, respectively, with the writing of the California Constitution of 1849, and with the launching of the state government. Crosby went to the Monterey Convention as a delegate from Sacramento. His account is not likely to change very much an expert's knowledge of that meeting. Yet not the least interesting point in the *Reminiscences* is xiv Crosby's flat denial of the widely accepted story that Jessie Benton Fremont was present at Monterey and influential in the affairs of the convention. Altogether, these are the best memoirs of the meeting which the editor has been able to find; and here, as in the section of description, Crosby supplies both freshness

and insight. He gives us data from behind the scenes on committee work, on the conditions of the convention, on the role of the Spanish California delegates, on the leadership of Gwin, and on the reasons why a northerner like himself should approve a pro-slavery southerner like Gwin and want him to represent California in the Senate. He had enormous respect for Gwin's gifts of persuasiveness and determination; he thought that only such a "politic man" could reconcile the South and win the votes necessary for the admission of California as a free state, and that Gwin was the one man to do it. In short, Crosby supplies particular indications of the factors of solidarity in the convention, factors which in general were obscure and far from dominant in the gold-rush state.

The necessity of immediate statehood Crosby felt most urgently—nothing less would do for the maintenance of order and for the development of California. After the drafting of the constitution he filled two offices of some importance in the launching of the new government. General Riley, the military governor, appointed him prefect of Sacramento, an office which in its last days gave him the duty of submitting the constitution to the vote of the people; and, after the adoption of the constitution, he was elected and served two sessions in the state senate. As legislator, Crosby was the leader in deciding that California should adopt the English common law, not the Roman civil law, as the foundation of state justice. Other opinion and gossip to the contrary notwithstanding, Crosby defends the opinion that the first state Assembly conducted itself in character with the constitutional convention, namely, as a body of able and fairly disinterested public servants. He says that there was no excess of dissipation. The second session, in his opinion, marked something of a step down towards xv the bribery and degradation of state politics which followed.

The fourth essay in the series the author headed, "Land Commission to Settle Private Land Claims in California." The interest of these pages is much more largely public than personal, yet they include all that Crosby tells of his private affairs in the decade of the fifties.\* He was practising before, and taking appeals to the federal courts from, the Land Commission set up in San Francisco by act of Congress in 1851, "to ascertain and settle private land claims" which derived from Spanish and Mexican grants in California. Altogether there were some 813 such claims brought before the commission; Crosby says that he handled more than one hundred of them. By his own

statement, this was an important, active period of his life. By implication there were large fees and much outlay, particularly in the appeals to the Supreme Court, and there were associations with men of wealth and power. Quite likely the affairs of owners of more than a million and a half acres passed over his desk.

On June 10, 1856, certificate was issued that Crosby was first lieutenant of the Tenth Company, Second Regiment of Infantry, in the Military Organization of the San Francisco Committee of Vigilance. (Photograph in the Huntington Library.) Mr. A. A. Gray confirms the editor's impression that Crosby made large fees in law practice during the fifties. He adds that Crosby passed through bankruptcy in the middle of the decade.

This is the point in the *Reminiscences* at which Crosby speaks most strongly in judgment of public affairs. To him as a practising lawyer as plainly as to California's democratic social critic and reformer, Henry George, and to many others, the policy and administration of the land act of 1851 were very wrong. The administrative and procedural faults, in Crosby's account, lay in the unnecessarily long chancery proceedings, in the need for Los Angeles claimants to come to San Francisco and for many claimants to appeal to Washington, and in the multitude of expenses which even the most favorably situated claimants could not avoid. The wrongness of policy lay in two directions: the insecurity thrust upon old Spanish and Mexican title-holders in essential contradiction of official guaranties made during the Mexican War and written into the treaty of peace; and the xvi exploitation of the law to secure the squatter vote for certain politicians and to give opportunity to land speculators. Crosby became convinced that the whittling down of Mexican titles, under the Land Commission and the courts, principally operated in the direction of very large concentrations of ownership by grasping American creditors and investors. This process Crosby judged to have delayed and discouraged for about a decade normal American agricultural settlement on small holdings. Such opinions show the writer to have been true to his origins in central New York. His social sympathies, now informed by the realities of California land-grabbing, mark him, at least in part, as an agrarian democrat of the Jeffersonian tradition. His sympathies also embraced the Spanish Californians, as an unjustly used people. He declares that the federal government treated them in plain bad faith.

After this discussion of the land claims, Crosby reverts to California only in the light vein of the "Anecdotal Scraps." The *Reminiscences* proper he brings to a close with an autobiographical



essay which surpasses all the others in amplitude and interest. This is his account of the origin and execution of his mission to Guatemala from 1861 to 1864. The section occupies somewhat more than one-third of the whole manuscript, and the information it contains is unique. Whereas the earlier sections give us new data and fresh insights, but always concern conditions and events in a state the story of which has constantly been retold, the story of the Guatemala mission is unknown and it is peculiarly Crosby's own. He renders it in a good narrative; and implicit in his account are significances which illuminate both the American Civil War and underlying conditions in Latin America which are important to the present day.

Crosby introduces the mission by telling of his return to New York in the autumn of 1860. He does this in less than two manuscript pages, but they are essential for understanding his own view of national affairs and issues, and accordingly for understanding also the main intentions of his diplomatic mission. On arrival in the eastern states he was astonished, he says, at the xvii tension of national politics. After a dozen years in California it was hard for him to take the talk about southern secession as seriously as New Yorkers did; and to satisfy himself he went down to Richmond, Charleston, and Savannah. There he found the excitement intense and rising, even “far beyond the representations made in the North.” In Charleston he witnessed the impromptu secessionist meetings which followed the news that Lincoln was elected, he heard the bells and saw the bonfires, and he sensed that the “wildest delirium” was spreading. Old California friends, whom he now met in their southern homes, were offended when he answered their questions with his own opinion that secession would lead to war, and war to the crushing of the South. His testimony is one more evidence that in 1861 southern minds in no way understood northern minds, nor northern minds southern, each in their growing extremism.

Crosby's account of the genesis and purpose of his mission shows that he himself was a participant in the mental blockades of 1861. Would not a deep perception of southern affairs and southern feeling have excluded any serious hope that a renewal of the Negro colonization movement would serve as a way out of the mounting struggle of 1861? The movement had failed a generation earlier, when Liberia had been the place of settlement. Yet Crosby's “secret instructions” proposed a new Liberia, albeit under different conditions, in Central America. Lincoln commissioned him; high

advisers in the new administration had originated the idea; and the new minister himself was deeply enthusiastic. He went to Guatemala, he tells us, in the hope—could he not remember what he had seen and heard in Charleston?—“that the slave population would be so much reduced by this movement that a compromise might be effected by which the rebellion then pending would be either averted or greatly modified.”

Crosby's sharing of the blind spots of sectional struggle fortunately did not dim his powers of observation when he reached Guatemala in the spring of 1861, and nothing changed his California habit of appreciating the Latin Americans with whom he xviii was thrown into contact. In Guatemala City he came to know and to have a high but realistic regard for President Rafael Carrera, of Indian blood, the strongest Central American dictator of the middle third of the nineteenth century. He was able to converse with him in Spanish, and to supply him with much information. He also knew and enjoyed the Catholic Archbishop of Guatemala, who occupied a seat of traditional great power. He received and accepted at face value the reasoning by which the Central American authorities refused to consider seriously the Negro colonization project; he was naturally grateful for their aversion to the Confederacy and their preference for the Union cause. He estimated what he might have accomplished in years of peace to build up the business connections between the United States and Central America. There is no intention of the “big stick” in Crosby, but in a general way his ideas anticipate the more active economic policy of the United States in the Caribbean during the twentieth century.

These attitudes and interests on the part of Crosby might, if he told us no more, be interpreted to indicate a conventional performance, a minister concerned with the necessary official interests of a representative of the United States thinking and acting in line of duty. So much there was, but the *Reminiscences* indicate something in addition, something more individual and more perceptive than a conventional performance of duty. Evidence of Crosby's ability to get on with the President and the Archbishop is matched with evidence of detached observation and criticism of the conditions before him. In his friendliness and appreciation of Guatemala Crosby is essentially critical of the absolutism of President Carrera, and he supplies us with a thoughtful discussion of the impulses and conditions which made for dictatorship in Central America. Yet he is not a complacent

American: he was irritated by the condition of the foreign service, the lack of training and the lack of continuity and effectiveness of its personnel. He renders a report of travel and observation which would do any minister credit. There are comments on the land, the people, the church, and the xix archeology of Guatemala. This section of the Crosby *Reminiscences* is instructive reading for American good neighbors of the present day.

For some reason, of which he gives us no indication, Crosby did not bring his *Reminiscences* further than the Guatemala mission; nor did he, indeed, quite complete that part of his story. In 1863 he rounded out his diplomatic service by acting as umpire of a mixed commission to settle a treaty dispute between Great Britain and Honduras. The following year he returned to the United States, resided awhile in Philadelphia, and in 1867 went to Europe for health and pleasure. He returned to San Francisco and to the practice of law in 1870, but was forced into near-retirement, after seven or eight years, by losing the sight of one eye and by the serious impairment of the other.

Between 1878 and his death in 1895, the last surviving member of the Monterey Convention, we catch only occasional glimpses of Crosby. He had moved to Alameda, and he served the community (as the community served him) in the offices of Justice of the Peace, Judge of the Police Court, and City Recorder. He put together his *Reminiscences*; he drew on them, as also on his memory and on books, for lectures before local audiences and for articles concerning the early days of California. He was a member of numerous organizations—of the Society of California Pioneers, of the Ethnological Society in New York, of the Knights Templar, of the Veteran Tippecanoe Club, and of the Republican Party.\* His fortune dwindled and his affairs diminished, but he passed not without memory and honor, more than thirty years after the achievements recorded in the “Memoirs and Reminiscences.”

Wood and Munro-Fraser, *History of Alameda County*, pp. 870-71, picture opposite p. 280; *The Bay of San Francisco*, II, 111-12. There are a few late biographical details in a letter from Crosby to H. T. Graves, on Masonic business, Aug. 9, 1883 (HM 21251). There are death notices in the Alameda *Encinal*, June 21, 24, 1895, and the San Francisco *Call*, June 24, 1895 (clippings in the library of the Society of California Pioneers).

An editor's desire to render a wholly truthful text is always a little confused with an equal desire not to let the irrelevant xx errors of the author, or of the author's assistants, make the edition obscure.

The whole text must be preserved; errors of statement, of course; errors of spelling, sometimes but not necessarily; and errors of punctuation, the same. In the present case, that of a more than half-blind writer, who wrote the first one-third of the text with his own hand and the rest by the hands of two amanuenses, the editor has felt that a little cleaning up of the text is the only right procedure. There is certainly no need to preserve the occasional words and phrases which Crosby struck out; none of them were matters of judgment or of excluded fact; and they have been deleted. Likewise interlineations have been brought down to the line, and transpositions have been inserted in the printed text as they were intended to be read. The spelling of the names of persons and of unfamiliar places has been corrected, as errors have been noted. Often it is difficult to be sure of the writer's intention as to capitalization and punctuation; in such cases, modern usage has been the guide. The editor thinks that he has been overcautious, rather than overgenerous to Crosby, in such matters; and he thinks that he has not changed any meaning of the author. The chapter divisions and the headings, except the last, are the editor's.

One of the satisfactions of editing a Huntington Library manuscript is the teamwork of the Library staff. Under the happy auspices of a research fellowship, financed by a Rockefeller Foundation grant to the Library for the study of the civilization of the American Southwest, the present editor read and sensed the interest of the Crosby manuscript. Mr. Godfrey Davies, the Library's general editor, suggested that the whole text should be published; the suggestion added to his duties, and he has given counsel and revision at the needed stages of preparation for printing and of printing. Mr. Leslie E. Bliss, the librarian, has likewise given good aid and counsel. Professor Robert G. Cleland, of the research staff, shared his time and his expert knowledge of California history, with complete generosity. The hard work of transcribing the manuscript was shared by Miss Helen G. Pearson xxi and Miss Ina C. Speed. Mrs. Marion Tinling's expert eye and hand managed the bulk of the checking and the amendment of the text; she has made dozens of valuable editorial suggestions. Less directly but also essentially, the services of the reference and the manuscript librarians, particularly Miss Constance Lodge, Mrs. Julia Macleod, and Miss Haydée Noya, contributed to the process of transforming private records into public. Mr. Carey Bliss was helpful in many ways, and most particularly so in finding the right illustrations for this volume.

The editor owes thanks also to historical workers outside the Library. Three colleagues at Stanford, Professors Thomas A. Bailey, Harold W. Bradley, and Graham H. Stuart, all of them experts in American foreign relations and overseas expansion, gave needed counsel in the unfamiliar task of studying the affairs of a United States diplomat in Central America. Mr. Almon R. Wright, while acting chief of the State Department Archives of the National Archives, in Washington, kindly searched out certain unprinted Crosby letters from Guatemala, and transcribed relevant portions for the Huntington Library. Members of the staffs of the Society of California Pioneers and the California Historical Society, most particularly Mrs. Helen S. Giffen, made conveniently available the Crosby materials deposited in Pioneer Hall, San Francisco. At the Bancroft Library, Mr. Frank Brezee located obscure materials; and Professor Herbert E. Bolton and Mr. A. A. Gray gave generously of their time and expert counsel.

Professor Edgar E. Robinson, a senior colleague at Stanford and an expert in California history, has rendered a most particular and generous service. After giving the whole text a critical reading, he checked Crosby's relation of many of the events of 1848 and 1849 against his own research data, and the findings of his graduate students. He supplied the editor with a list of dissents, caveats, and supplementary data. The more salient of his points are stated and credited in four of the critical footnotes below. In Mr. Robinson's opinion, Crosby emerges as an xxii imprecise and subjective witness. If the editor is more forgiving, it is because so many of the data do bear checking, and because the *Reminiscences* as a whole have illuminated for him the place and period as few other memoirs have done.

CHARLES A. BARKER

Stanford University

February 8, 1945

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### **Bibliographical Note on the Crosby Papers**

PROBABLY no amount of scholarly detective work would suffice to determine precisely the amount and the full content of the personal papers of Elisha O. Crosby, at the time of his death in 1895. But Mr. Albert Dressler of San Francisco was one of the purchasers of those papers when they were sold by the family during the decade of the twenties, and he has generously shared his recollection with the editor. He recalls that Crosby's library and he thinks substantially all his papers were sold, in a number of lots and to a number of purchasers. This was probably somewhat later than the 1922 sale of the "Memoirs and Reminiscences" to the Huntington Library. Through sale and resale many Crosby items may have moved rather far from San Francisco. From simple lack of evidence, the editor presumes that there never were other Crosby items of the size and interest of the present *Reminiscences*. But possibly there were, or are, such items; and certainly a collection of Crosby letters, should they turn up, ought to be entertaining and informing.

So far as now appears, the Huntington Library has the largest amount of Crosby material. It is listed and classified below. That list is supplemented by notes on the Crosby holdings, known to the editor, in other depositories. *Huntington Library, San Marino* (1) "Memoirs and Reminiscences of E. O. Crosby" (HM 284) (2) Minor Manuscripts by Crosby purchased with the "Memoirs and Reminiscences," in 1922 (a) five sets of notes and text for addresses, delivered in the 1880's, on California affairs about 1849 (HM 279-283); (b) a letter to H. T. Graves, Aug. 9, 1883 (HM 21251); (c) memorandum of Masonic record (HM 4206) xxiv (3) Photographs of Crosby Documents (a) His commission as prefect of the district of Sacramento, Sept. 27, 1849, signed by Governor Riley; (b) letters to Crosby from W. G. Marcy, Oct. 11, 1849; H. W. Halleck, Dec. 4, 1849; W. Van Voorhies, Jan. 29, 1850; and P. H. Burnett, Apr. 24, 1852; (c) election notice issued by Crosby as prefect, Jan. 29, 1850; (d) certificates, of his admission as attorney of the U. S. Circuit Court, Districts of California, Aug. 27, 1855; and of his office as first lieutenant in the Military Organization of the Vigilance Committee of San Francisco, June 10, 1856 (4) Other Photographs. The portrait reproduced as the frontispiece of this book; and a picture of Crosby's house in Alameda (5) Typewritten Transcripts (a) undated report of committee, of which Crosby was chairman, to Monterey convention, 1849; (b) four texts of addresses or interviews on early California affairs.

These items are closely similar to the minor manuscripts (HM 279-283) listed above; the nine items considerably repeat each other, and they all enlarge upon data in the *Reminiscences*.

The photographs and transcripts listed above were purchased by the Library in 1944. These reproductions were made by Mr. Dressler when the originals were in his possession, during the late twenties. He intended to use them in the preparation of a little book on Crosby. He decided against completing the book, but some of his notes and fragments of a draft were kept with the Crosby photographs and transcripts, and came with them to the Huntington Library. *Bancroft Library, Berkeley*

Outside the Huntington Library, the Bancroft Library of the University of California has the most important Crosby material. Its manuscript "Statement of Events in Cal. as related by Judge E. O. Crosby, for Bancroft Library, 1878," is a variant xxv of the "Memoirs and Reminiscences." There are verbal differences between the two, on every page, but no essential ones. The Bancroft Library's manuscript lacks a number of paragraphs which appear in the early pages of the Huntington Library's "Memoirs and Reminiscences"; on the other hand, it contains an interesting page, in the Guatemala section, which is lacking in the present text, and which is reproduced in footnote 53, below. The evidence of handwriting indicates that the "Memoirs and Reminiscences" is the original draft, and the "Events in California" a copy or a dictated version made for Hubert Howe Bancroft. *Pioneer Hall, San Francisco*

The two historical associations which occupy Pioneer Hall each have Crosby items.

The California Historical Society has the manuscript, and typed transcriptions of the manuscript, "Memoirs and Reminiscences of Henry E. Robinson, one of the Early Pioneers to California and a State Senator in the First Legislature of California." Crosby wrote this about his most intimate friend, whom he first met in Panama in early 1849, when both were on their way to California. Thereafter they traveled together, and were in business and politics together; and for extended periods Robinson lived in Crosby's household. Crosby wrote about this friend, shortly after his death in 1880, in order to provide a memoir for his relatives in New York. The passages in it

which concern the voyage of the “California” are extensively reproduced in Victor M. Berthold, *The Pioneer Steamer California*, 1848-1849 (Boston and New York, 1932), pp. 44, 59-60, 61-62, 63. They are very similar to passages in the “Memoirs and Reminiscences,” from which they were presumably developed; and the same is true of the data in the Robinson memoir which are concerned with the launching of the government of California, in which the two men were closely associated. In other respects the Robinson memoir is an independent composition; except for the individual activities of the man whose story it tells, it is not xxvi very informing, and has no general comment to compare in interest with the present *Reminiscences*. Crosby speaks of his devotion to his friend in a letter to Robinson's sister, Mrs. Caroline M. Roberts, April, 1880. This letter is filed with the memoir in the Library of the California Historical Society.

The Society of California Pioneers has only one Crosby manuscript. This is the original, dated in Alameda, 1893, of the article on the first state election, which is revised and printed in the *Quarterly of the Society of California Pioneers*, V, 65-75. The Society has also the membership record of Crosby and his son, Edward, and a few newspaper clippings about him.

Reminiscences of California and Guatemala

3

## **BEGINNINGS IN NEW YORK STATE AND CITY**

I WAS born on the 18th of July 1818, in the Town of Groton Tompkins County, N. Y. My Father was a farmer in moderate circumstances. I was the second of four boys; there were also three girls younger than myself. My fathers name was Samuel Crosby. My mothers maiden name was Mehitable Spaulding, daughter of Edward Spaulding, of the town of Summer Hill Cayuga County, N. Y. and sister of E. G. Spaulding of Buffalo, N. Y. My grandfather Samuel Crosby came from Dutchess County N. Y. He died in the Town of Groton N. Y. and is buried in the old cemetery two and a half miles east of Groton Village.\* My father removed to Kansas, and lived with my sister Mary, wife of O. P. Gun[?], a civil engineer who was engaged upon the R. R. of that State.



A local historian, who evidently was well informed, says that Crosby had both a paternal and a maternal ancestor who were in Plymouth Colony in the 1630's. His family, like many New England families, was early and leading in the settlement of central New York. *The Bay of San Francisco*, II, 108.

I was brought up on the farm and participated in its labours; receiving a district school education in the winter time. When I was 16 years old I went to the Groton Academy one term, and then to Cortland Academy at Homer, Cortland County N. Y. where I recd an academic education. I commenced reading law in the office of James Leach, in Cortland Co. while attending school; on completing my academic course, I was admitted to the County Court of Tompkins Co. and the County Court of Cortland County as an Attorney & Counsellor in 1841. 4 On the completion of my academic course, my father gave me a little outfit—a trunk of clothes and fifty dollars in money, and I started west to seek my fortune; I was then about 21 years old. The sensations of hope and fear, that beset this first plunge into the great world, to begin the battle of life; is no doubt the strongest presure we ever experience. The kindness and motherly endearments of home, seem doubly precious to the sensitive boy as he sees around him only selfish and unfriendly faces. The *happy* hours of childhood and youth carry their influences with them through all our future life, and how little do parents seem to realise this fact. I went to Buffalo, N. Y. and after a few months spent in the law office of Elijah & Nelson Ford, I was invited by my uncle E. G. Spaulding, a well known lawyer and a prominent public man in the State of N. Y. to remain there and continue my law studies.\* I remained in his office until I completed my law studies; doing enough duty in the office to pay my expenses. In 1843, I was admitted Attorney of the Supreme Court of the State of N. Y. The Chief Justice at that time was Samuel Nelson, who was afterwards one of the Justices of the Supreme Court of the United States. The same month and year I was admitted a Solicitor in Chancery. The Court of Chancery was then one of the most respected tribunals in the State and presided over by Reuben Hyde Walworth the Chancellor, who signed my Diploma on the 18th day of July 1843, my birthday, and my 25th year of age.

Crosby speaks elsewhere of the advantage he had in Buffalo of a course of lectures on Civil Law by Millard Fillmore, the future president. "The First State Election in California," *Quarterly of the Society of California Pioneers*, V, 72.

The first commission I ever received was for the office of Examiner in Chancery, by Gov. Bouck of the State of New York. In the fall of 1843 I went to N. Y. city and formed a connection with

Abner Benedict in the practice of law. He was an old lawyer in that city and a brother of Erastus C Benedict an eminent Admiralty lawyer of N. Y. Our office was at 27 Wall St. N. Y. city. I continued practice there until 1848. In the fall of that 5 year, there were vague rumors of gold discoveries in California. The air seemed filled with a golden halo, but these rumors were not traceable to any authentic source. Yet it seemed to pervade the public mind that there were great discoveries of gold in California. At that time Decr. 1st 1848, when the Presidents Message was published, among the Documents which accompanied it, were several letters received by the Government, from California, and among them some written by Gov. Mason then Military Governor; Thos. O. Larkin who had been formerly U. S. Consul at Monterey; Chas. T. Botts, who was then U. S. Naval Storekeeper at Monterey, and some others whose names I do not now remember. (These letters will be found among the Executive Documents printed for that year.)\* They gave an account of their examinations, of the new gold discoveries, and their visits to the gold mines. These dispatches were sent in charge of Lieut. Loeser who was at the time attached to one of the vessels of war here and who was dispatched down the coast, and made his way through Mexico, and reached Washington in time to present the letters to the Govt. before the Presidents Message was ready for delivery to Congress Decr. 1, 1848. That was the first authentic information the people in eastern States had of the discovery of gold in California. That was the 1st of Decr. 1848. The excitement incident to that information was something wonderfull: everybody was intensely interested: all the younger, and some of the older people were crazy to set out for the new Eldorado. It became a serious question whether the transit of the Isthmus of Panama could be made with safety, as there was no information in regard to the condition of things on the Isthmus. There was so little intercourse that very little was known of it at that time.

The exciting Mason and Larkin documents to which Crosby refers are to be found in House of Representatives, 30th Congress, 2d session, *Executive Document* No. 1, pp. 51-69 (Washington, 1848). The President's message was actually delivered December 5, 1848.

Among all the vast amount of shipping that arrived at New York, there was no Captain or other seafairing man who could give any intelligent idea of things on the Isthmus, or what the facilities were for crossing it, or whether any provisions could be obtained there for the sustenance of life. The passage through Mexico was then considered very dangerous, because of the recent war

between the United States and that country, and very few had the temerity to undertake the transit of the Continent through Mexico. The passage overland was at the moment out of the question and for many months to come, it being the commencement of winter. Therefore the only feasible and quick route seemed to be by way of the Isthmus of Panama, taking the chances of its supposed deadly sickness and other horrors, so vividly pictured by the newspapers of the day.

It may seem laughable to relate the fact, that those first passengers for Chagres from N. Y. in Decr. 1848, were regarded by their friends and the public, as doomed to death, and starvation, if they attempted to land, and make their way across to Panama. It is true, that some philanthropic persons went so far as to urge upon Govt. officials to interfere to prevent vessels from leaving N. Y. with passengers until a Govt vessel or other reliable expedition had visited Chagres and the Isthmus and returned with authentic information regarding its practicability and safety. Such precaution was asking too much from the adventurous men who first embarked for California in 1848 & 1849. They took their lives in their hands and ventured out into the unknown passage, with that fearlessness so characteristic of the first Argonauts of 1849.

Some time during the summer of 1848, in July I think, \* 7 Howland & Aspinwall dispatched the first steamer to California, to go around Cape Horn, and report at Panama on her way up the Pacific Coast, to take the route from Panama to Oregon. That was previous to the gold rumors. During the time between 1846 & 48, the U. S. Govt conceived the idea of encouraging by subsidy the establishment of a steam line between Panama and Oregon, to touch at Monterey or some other point in California, to deliver mail and passengers and thus open up a more direct communication between the Atlantic coast and our possession of Oregon, which was deemed of primary importance; California then being considered of not much, if of any value whatever. Howland and Aspinwall agreed to put a line of three steamers of some ten to twelve hundred tons burden, on this route, giving cabin accommodations for twenty five persons in each, that being considered amply sufficient for as many as would probably take passage at one time; the balance of the steamers being devoted to freight. Under that arrangement, they commenced the construction of

three steamers in N. Y. city, The California, The Panama, and The Oregon. The California was the first one dispatched from New York.

Professor Robinson points out that Crosby is inexact in his statement of the conditions and dates of the early departures from the Atlantic seaboard for California. The "California" sailed in October, not in July; and the "Falcon," which sailed from New York for the isthmus via New Orleans, departed on December 1, or three weeks ahead of the "Quaker City," which Crosby remembered as the first vessel to make the run to the isthmus from New York. Also, Crosby's memory of "vague rumors" of California gold, prior to President Polk's message, is an understatement of the newspaper reports printed in the east, during the summer and fall. Yet, in Crosby's favor, the "California" sailed without passengers for California, and the "Falcon," leaving only four days ahead of the President's message, was not crowded, and its New York passengers were not a part of the gold rush. The gold-rush passengers began to sail, as Crosby says, after the President's message. The master's thesis, deposited in the Stanford University Library, of Marco G. Thorne, an edition of "The Diary of Levi Stowell, 1849," a manuscript in the Library's Borel Collection, gives exact data on the voyages of the "Falcon" and the "California."

Howland & Aspinwall were clients of Mr. Benedict my partner in the law, and I had occasion to know more or less of their movements and projects, which were talked over in the office by those gentlemen and others, and the question was often discussed by them, whether a steamer could double Cape Horn, and whether it was a feat that could be safely accomplished. They were side wheel steamers, and the insurance on what little amount they did effect was at enormous rates, as it was considered so doubtful by seafaring men and merchants, whether these steamers could get around Cape Horn.

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## **AN ARGONAUT BY WAY OF PANAMA**

WHEN the news of the gold discovery in California was promulgated and it became known, as a reliable fact, every body seemed anxious if possible to make the transit of the Isthmus of Panama, to intercept the steamer when she should arrive there, if indeed she should be fortunate enough to get there safely. One or two vessels left New Orleans during the month of Decr. 1848 for Chagres; the steamer "Quaker City" left New York for Chagres about the 20th of Decr. 1848, being the first from New York. The second was the old steamer "Isthmus" which left on Christmas day 1848. for Chagres. I was a passenger on that steamer. I think the Quaker City carried about 200. persons, and we had something like 120. or 130. Some other vessels were fitting out for ports in Mexico and Central America about that time, when they proposed crossing the continent and taking the chances

of getting passage on the Pacific side to California. These trips were wholly experimental. The New York Herald of that time sought information, and tried to discourage people from going by the way of Chagres, on account of its great unhealthiness, declaring that the adventurers would be destroyed as fast as they landed there.

They urged the people to be patient until some accurate information about the best rout was obtained, and advised them to wait until it was known that the steamer had arrived at Panama. That was the prevailing tone of the New York papers at that time; but they might as well have attempted to stop a 10 band of wild horses as to stay the emigration which had already commenced. The day the steamer Isthmus left New York, a cold half melting snow storm prevailed, and a more forlorn and half frozen croud you never saw than filled the deck when she left her berth at the foot of Cortland St. on Christmas day 1848. On the morning of the 26th we passed Sandy Hook and put to sea. This was my first experience of sea life, and the sea sickness that followed for some days brought many regrets for the quiet home I had just left, and determined resolutions never to venture again at sea if I once gained a safe footing on land again. How well I kept my promises may be answered by the fact that I have since made eleven sea voyages.

The second day out we began to experience the softening influence of the gulf stream, and the third fourth and fifth days brought us quite within a new and spring like climate. Our coats and heavy woollen[s] began to be laid aside, and the horrors of a northern winter gave place to the delightful spring and summer clime. Our steamer was in command of Capt. Baker, familiarly known on this coast afterwards as "Lying Jim Baker: he held a divided command with a Capt. Wood who professed to have been at the Port of Chagres, sometime in his early life as a sailor. Woods was then quite advanced in years. I never saw or heard of him after leaving the steamer. Both he and Baker were free drinkers, and much of the time pretty drunk. We made the Bahama Banks in due time and as we had lost the usual ships channels we meandered the shoal and often dangerous channels among the coral reefs. I may mention an incident that occurred when we were well out to sea off Cape Hatteras. A severe gale had driven the ocean into high waves, and our old steamer was labouring heavily, when an allarm of fire was given and smoke began to issue from the hold of the vessel. Much confusion followed and after search was made for the location of the fire, it

was found to be under that part of the hold where our trunks and baggage was stowed, and seemed almost beyond human reach. It was pretty well known that every passenger had stowed away his small arms and enough powder for a 11 California campaign and any one of these trunks contained enough powder to blow the steamer to attoms. I remember setting on the taf rail with E. V. Joyce Esqu. a fellow passenger from New York, and contemplating the chances of our being very soon blown up. Fortunately however a gleam of hope came to us, in the proposition to scuttle the ship, and let it sink far enough to stop the fire, and this expedient was actually commenced, but one of the firemen (by the way a colored man) succeeded in opening a passage to the location of the fire, and we all took a hand in pumping water into the hold which soon extinguished its ravages. It was a pretty close shave, and for one I was thankful to be so fortunately out of it.

We navigated pretty nearly around the island of Cuba, and finally stopped at Havana. The contrast of climate and scenery between New York in the middle of winter and the tropical beauty and foliage of the delightful island of Cuba, produces the most agreeable sensations. I advise you to try the experiment. We were not permitted to land although we stayed in port two days under the guns of the celebrated “Moro Castle.”

The “Ishmus” then put to sea and made way for the Island of Jamaica, and for what reason I could never divine our Captain went entirely around the Island, and finally put into the Port of Kingston for a supply of coal water, and provisions. There we were permitted to go ashore and were received very kindly, and the “boys” had the free run of the town. The scenes and the occasion were as much enjoyed by the people as by the passengers, who were mostly young men full of life and hilarity. The contrast between the rigors of the northern climate we had so lately left, and the soft tropical atmosphere of Kingston seemed to inspire them with unusual animal spirits, and they had a “high time.”

A good many took occasion to lay in a supply, not only of provisions, but of summer clothing, and as this trade proved so profitable to the merchants of Kingston, the authorities gave us the liberty of the city and country.

Santa Anna was then living near the city of Kingston and I 12 went with a party to call upon him. He received us very kindly; chatted familiarly; entertained us with refreshments, wished us a prosperous voyage and success in our new adventures, and spoke very honorably of the Americans and their bravery, and said he esteemed it quite an honor that he had had so brave an enemy to deal with during the Mexican War. He is a fine type of a Mexican General and President, polite and courteous to all, and well calculated to intrigue his way into power. We left him with our best wishes and highly delighted with our call.

The coaling of a steamer at Kingston presented a new feature of tropical life to most of us. The work was done at night, and the coal carried on board in buckets on the heads of the negroes. The blazing sun is too powerful for even negroes and they took the cooler time at night for this labour, by forming two lines, one going on board with tubs of coal on the head, depositing it in the bunkers and returning in another line, to the shore. The torches that lit up the scene and the chanting of their wild melody presented a weird picture not easily forgotten. Kingston life and coaling must have an end, and notice given to again go on board, and try again the delightful Sea life on the old Isthmus.

The passage of the Caribbean Sea is generally disagreeable because of its shallow water and short chopping seas, and wo is he who has the slightest tendency to sea sickness, that most vilanous of all sensations to head and stomach, and all to be laughed at, for nobody gets the least simpathy, for all his woes, from his fellow passengers. By way of a remedy I advise "Champaign Cocktails." It is not bad to take and did me on many voyages much good. Try it.

We reached Chagres about the 20th of January 1849, the steamer running right into the harbor. The "Quaker City" was lying outside, when she discharged her passengers. The entrance is very narrow, with rocks on both sides, and it was a dangerous passage. I have often thought that Providence protected that wonderful emigration that came by sea and land to the Pacific coast, during that eventful year of 1849, and was the cause of our safety, for both our captains were in a condition not 13 to exercise much if any discretion. We went in however safely nearly touching and grazing the rocky points on either side.

The passengers of the Quaker City and those who came by the two vessels from New Orleans had already disembarked and had disappeared on the Isthmus.\* I associated with ten or twelve of our passengers, and we hired a large bongo, for our baggage, and a smaller one for ourselves from the natives, and the same day got our “traps” from the steamer, and stowed them as best we could, on these dugouts, and commenced our ascent of the Chagres River, the natives rowing or paddling, with an oar like a pointed long handle shovel, or poling by long poles res[t]ing on the bottom of the river, and occasionally getting into the water & dragging our boats along. We got up from Chagres five or six miles that evening, and camped on the bank of the river. In about three days we reached the end of navigation on the river, at the little settlement of Cruces. The natives at that time were very civil inoffensive and obliging. We got supplies of Poultry eggs and vegetables, meat, rice, and such other articles as they had, and at very low prices, compared with the enormous prices afterwards paid by passengers who swarmed upon the Isthmus, a few months later.

For the authoritative and informing study of the route Crosby traveled, see John H. Kemble, *The Panama Route, 1848-1869* (Berkeley and Los Angeles, 1943).

With another companion, I hired a couple of mules for our trunks, and we were fortunate enough to secure another animal to ride alternately, “ride and tie,” as it was called. In that way we made the trip acrost the Isthmus to Panama, some twelve or fifteen miles. We did not enter Panama immediately, but camped outside, as the cholera was said to be prevailing at the time, and several hundred emigrants there already. The second day after we arrived, news came of the sighting of the Steamer “California” off the Port of Panama. That was on the 25th of January I think. I went into town and presented my letters to the agents of Howland & Aspinwall, Zachrison & Nelson. These letters directed their agents at Panama to put me on board the 14 first steamer that came round to Panama. Mr. Nelson very kindly and considerately took me in charge, and furnished me with a box of provisions, and a large Mexican Hammock for he said he could do very little else than put me on board; that there were only cabin accommodations for 25 persons, and they had already been taken up, and besides that, some 60. or 70. Chilenos had been taken on at Valparaiso; and how the passengers were to manage, was more than he could tell. But he said he would put me on board with that little box of provisions, and what I could not get from the general mess I must make out



of my box. It was a very thoughtful thing in him, and I have often called to mind his kindness with much gratitude. He also advised me to take the Hamock, which I did, and had it hung in the rigging of the steamer, and slept there most of the way from Panama to San Francisco. The hold of the steamer was fitted up with temporary bunks, and as many passengers taken on as it was thought possible to accommodate, and carry with safety. We left at Panama about 300. who were anxious to go, but were refused, much to their regret and disgust. I think we had about 450. on board including the Chilenos and crew. Capt. Marshall was taken on board at Valparaiso to navigate the steamer, and Capt Forbes who brought the steamer from New York around Cape Horn looking after the passengers &c. Alfred Robinson who came out as the agent of the Pacific Steam Ship Co. was on board. He had previously lived in California and is the author of . \*

Crosby left the line blank. Evidently he was trying to recall Robinson's *Life in California* (New York, 1846), which includes a translation of "Chinigchinich," an account of the Indians at Mission San Juan Capistrano, by Father Geronimo Boscana (1776-1831).

We left Panama on the 1st of February 1849, and every one of the passengers were in good humour, as they all expected to become rich and happy; the scenes and incidents of that voyage were varied and comical in the extreme. We touched at Acapulco and Mazatlan and took on supplies of beef cattle, sheep, hogs & Poultry, besides quantities of oranges and other fruits 15 & vegetables. We reached Monterey about the 22d or 23d of Feby. where we remained two or three days to take on wood, supposing we had not coal enough to take us up to San Francisco; after cutting green wood and putting some of it on board for two or three days, sufficient coal was found in bags under the store room floor.

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## **CALIFORNIA NO HUMBUG**

WE ARRIVED here in San Francisco on the 28th day of Feby 1849. The Pacific Squadron was then lying at Saucilito, and not another vessel or mast of any thing lying off the present city of San Francisco. With 450. people on board, and no way of getting ashore except with the steamers small boats; and with a great mud flat lying between the ships channel and Montgomery Street, and a few low buildings on shore, mostly constructed by the Russian Fur Company; the prospect did

not look very inviting: That golden halo that seemed to pervade the Eastern skies of the Eastern world before we left, had faded out very much, and the sterner realities of our new life and home presented themselves. The ardor and glow of most of the passengers was pretty well dampened: and a good many expressed the opinion that they had been made the victims of false reports and their own rash credulity in regard to what looked to them then, as very mythical gold prospects. However we commenced getting ashore as fast as possible. It was pretty well understood that every fellow must look out for himself as best he could.

There was nothing to be seen on the bay; it was just a desolation. The crew began to desert the steamer the first night. The passengers commenced discharging their baggage, and pulling off with the ships boats, and camping about on the side of Telegraph Hill. Our landing was all made on the rocks at Clarks Point, near the foot of Broadway, the rocks projecting there into the water.

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Among the passengers on the “California” were General Persifer F. Smith his wife and military staff. Among the staff were Major Canby who was killed by the Modoc Indians. Col Joe Hooker, afterwards the celebrated hero of Lookout Mountains in the war of the rebellion; Lieut. Stoneman, afterwards Genl. Stoneman. They and their effects had precedence in the landing.\*

Neither Hooker nor Stoneman appears in the passenger list of the “California,” which is compiled in Berthold, *The Pioneer Steamer California*, Appendix A. General George Stoneman was to be governor of California from 1883 to 1887.

Genl. Smith was sent out to take command of the Military Department of the Pacific—California and Oregon. In two or three days, everybody had deserted the steamer except Capt. Forbes, from the acting captain down to the last scullion; Capt. Forbes called on Comodore Jones, then in command of the Squadron for men to go on board the steamer to take care of her, and prevent her drifting out to sea.

We found at San Francisco a population estimated at about 300. If the 450. who came off the steamer had remained there, they would have considerably more than doubled the population. Those who were there when we arrived were mostly women and children and old men. They were

some of them remnants of Col Stevensons Regiment, that had been sent out here before and during the Mexican war, also early emigrants who had drifted in, and some Kanakas. Some few had been to the mines and returned. There were two or three mercantile houses. Ross Bros. (C.L. Ross) Howard F. Meller, Green, Clark of Clarks Point, and some others.

Dr. Leavenworth was then acting alcalde of San Francisco, and had his office in a room in a little one story building at the S.W. corner of Clay and Kearney Streets opposite the Plaza. He came out to California as Chaplain and Surgeon on board one of the vessels that brought Stevenson[s] Regiment. I knew Dr Leavenworth in New York, a rather excentric man in many respects, but on the whole a good man. He received me in a friendly way certainly, and extended the hospitality of his office 19 which was all he could do. He had built with his own hands a little bunk in one corner of his office where he slept himself, and told me I was welcome to lay my blankets in another corner on the floor, which was a great privilege at that time, and about equal to extending the hospitalities of the Palace Hotel at the present time. I slept there the first night I passed on shore in San Francisco and we arranged a temporary bunk next day for my future occupation. A great many of the passengers sought boxes or large casks, or crates or sheds, or any thing that would shelter them from the night dampness and cold. It is said some even paid a dollar a night for the privilege of sleeping in some crates and boxes that had straw in them, and arranged for that purpose along a shed adjoining a building called the "City Hotel corner of Clay and Kearney Streets. At this famous "Hotel we got our meals in those first days of California life, consisting of boiled beef, rather indifferent bread, a decoction called coffee, and sea biuscuit sometimes, but they were rather a luxury and seldom provided at the public table; but those who were fortunate enough to secure them outside, would bring their desert in their pockets, in the shape of sea biuscuit or sometimes a bottle of pickles. The bread, beef, coffee, and very indiferent sugar, were all we were entitled to, and for these we paid a dollar a meal, and they paid a dollar for the privilege of going into the garret, and putting their blankets on the floor to sleep. It was very difficult to get any thing like supplies.

The "California" discharged considerable stuff that afforded more or less supplies for the people here. There was a general disposition to get away from the city, to the gold mines, some men

putting three boards together to make a skiff, that looked more like a coffin, to cross the bay to Oakland Point, and thence to make their way over land to the mines the best way they could. A few days after we arrived a “Launch” from up the Sacramento, at Sutters embarcadero, came here, and was immediately taken up; the passage ranging from one to two hundred dollars, according to the [amount] of baggage to be landed at the embarcadero of Sutters Fort. She put right back in ten or 20 twelve days and took all the human beings that could possibly go on her. I purchased an old whale boat that was discovered round at Mission Creek, by the Assistant Carpenter of the Steamer “California” who had run away from the vessel, he had found the owner. I bought the boat and got some pieces of board for which I paid at the rate of 20. cents a foot, or \$200. a hundred feet, and the carpenter repaired it so that we could navigate; I took six men at \$50. apiece, who agreed to do the rowing, if I would carry them, and their small packs of clothing & provisions.

I think it was about the 10th or 12th of March “49” when we started for Sacramento, and with vigorous pulling we reached Sutters Embarcadero in about three days, one of the quickest trips then on record. I chartered the boat to John Morris the boatswain of the “California” whom I found at Sacramento and he gave me \$300. for the charter, to go to San Francisco and return; he afterwards told me that he made \$500 out of the trip besides the \$300. he paid to me. He carried down a lot of fellows who were returning from the mines and who were anxious to see the “Steamer California” as many of them were from the Western States or Territories, and had emigrated to the Pacific Coast overland and had never seen an ocean steamer. They were a fine type of those familiarly known in early days as “Pikes”—This name was derived from the frequent answer given by early emigrants when asked where they came from, “Pike County Missouri”, and it soon became a convenient answer by so many who did not care to tell their true State of nativity, they would belch out, “Pike” and pass on. And so it became to be the most common answer to the pertinent or impertinent question of where do you come from? “Pike” would be the answer. Some of our English cousins, not very familiar with the geography of the U.S. or the peculiarities of our native American citizens, would often remark that the greatest number of people in California came from “Pike”, and that a great majority of the incoming emigration came from that populous region east

of the Rocky Mountains. The laugh and ready response was “Pike” 21 and it soon became popular among all classes to designate the rough miner or new emigrant a “Pike.”

The present site of Sacramento City was then simply like the rest of the river bank, only it was a point where the embarkation and disembarkation of things was carried on from Sutters Fort which lay about two miles back, on higher ground near the banks of the American River. I went directly up to the Fort which was then in its glory. The old enclosure was all in repair, the buildings inside were large, and occupied by Genl Sutter, then Capt. Sutter, and his officers, and his business was transacted there. He was the principal man of all that northern Country. He had been Commandant in charge of the northern frontiers under the Mexican Government. When I arrived at the Fort Capt. Sutter was not there. Parties were occupying different places in the Fort. Frank Bates was the alcalde. Wherever there was a settlement in the country there was an alcalde. All the country lying north of the Cosumnes River, under the Spanish jurisdiction, was in one district, as it were. It was a vast Territory little known and unexplored. Nobody knew anything about the Sierra Nevadas then except on the line of trails of the few emigrants who had made their way to California from the western states. The limits eastward was unknown and undefined boundary and also north to the Oregon boundary line. The Cosumnes River empties into the waters of the bay near the mouth of the Sacramento at Suisun Bay.

Sam Brannan had a trading post at the Fort, in one of the old adobe buildings just outside—\* Mr. Petit had a place inside, quite a little establishment for those days, where he kept miners supplies, some biscuit pickles and bottled ale. A pint bottle of ale was worth at that time and place a half ounce of gold dust.

Most of the early Californians of whom Crosby speaks are either sufficiently identified by his own text or else are very minor figures. But this is not true of Brannan (1819-1889), whose leadership in California Mormonism and gold mining was followed by leadership in San Francisco politics, land speculation, vigilantism, and economic promotion of all kinds.

The principal supplies were furnished from Capt Sutters Fort. He had herds of Cattle ranging in the country there, and raised 22 considerable wheat, and had been heretofore raising vegetables. He employed a good many men in his farming operations, and some Mexican Vacqueros to look

after his cattle and horses. I stayed a few days and then went with Frank Bates and Mr Campbell an Oregon man, to Mormon Island, where I saw gold digging for the first time. That is the junction of the north and south forks of the American River. Sam Brannan had several Mormons employed there at that time, but they began to straggle away and dig on their own account. He was a kind of leader of the Mormons. We stayed at Mormon Island over night, sleeping under the trees on our blankets spread upon the ground, and next day went on to Sutters Mill where the gold was first discovered—

There we found the frame of the Saw mill, with its gearing in, the works partly covered with boards, where they had been sawing out boards and timber. Of course the first thing to be explored and seen was the identical spot where the gold was first picked up. I saw Marshall the man who brought down the first pieces of gold to the Fort, which were afterwards carried to San Francisco, submitted to examination and pronounced to be gold. I learned from him an account of all the incidents connected with the discovery. The account he gave me was this: They erected a dam for the mill, and put in their wheel, and in digging a race for the waste water to run away; and when they let on the water, they found the tail race was not dug sufficiently low to carry off the water effectually, and it backed on to the wheel. In order to save labor in digging any more in the tail race and to hasten the work, they concluded they would raise the gate, and let the water rush through this tail race, and deepen it out.

Marshall says they let in this flood of water from the dam and it tore out the ground, and accomplished the work of deepening the tail race very satisfactorily. This experiment was so successful that they felt a curiosity to go down and see how much it had deepened the ditch. While they were down in the bottom of the ditch they discovered some shining bits of metal. This was

STEAMSHIP “CALIFORNIA”

23 about June or July “48.”

\*

They took up the pieces, and found them heavy, and what they were they at first did not know, but their desire was that they should be gold, and they thought they were gold, and they gathered up quite a little package of the metal and tied it up in a rag, and agreed to keep the thing quiet. Marshall was to go down to the Fort, and submit it to Captain Sutter, who had acids and chemicals by which they could test it, and ascertain what it was.

As Mr. Robinson indicates, this is the point of Crosby's widest deviation from the accepted record, which places Marshall's discovery on January 24, 1848. Interestingly enough, Jessie Benton Fremont, in a booklet published in the same year as Crosby wrote the "Memoirs and Reminiscences," said that the first gold was found in August, 1848. ( *A Year of American Travel* [New York, 1878], p. 97 n.)

There were some Mexicans working near the mill getting out logs and timber and Marshall said one of the oldest ones, who had known something of mining in Mexico told them it was gold. That was what really convinced them in the first place that it might be so, and determined them to investigate it further. It was the merest accident in the world, one of those occurrences which was not premeditated, as gold was the last thing they were looking for. Marshall went down to the Fort, and submitted these specimens for examination and test to Capt. Sutter.

The Fort was a place of general rendezvous for all the northern part of California, and there were more people there than anywhere else. I think he said the specimens were tested there by some one else who professed to know something about chemistry besides Capt. Sutter.

But to satisfy themselves more fully, they sent down pieces to San Francisco, where they were tested and pronounced to contain gold, and from that on, the thing kept developing itself until it became a settled fact that the metal was gold. People then began to settle along the American River, and when I arrived, there were parties who had collected very considerable amounts. There was a man named Daley living on the Consumnes River who had a cattle ranch and quite a band of cattle, and had quite a band of Indians under his control, and by their aid he had collected a considerable amount of gold when I arrived in that part of the country. Petit the trader at Sutters Fort had also collected quite an amount, in fact a little fortune.

The favorite receptacle for it seemed to be pickle jars, for the reason there were more of them to be had than of any other kind of vessel; canned fruits were not known much then and these bottles were common. A man named Grimes on the north side of the American River above Sacramento had obtained some considerable quantity. Sam Brannan had secured quite a large amount. When I went there I found parties prospecting the different rivers and ravines along the foot hills of the Sierra Nevada, sometimes a single man, and sometimes two or three in company. Generally they would dig in and get the dirt where they could see the color, and put it in a tin pan, and carry it to the water, fill the pan, and agitate it by a circular rotating motion, by which the dirt would loosen and dissolve and flow out, the gold settling to the bottom. They would pick out the stones and work it out until they got it clean, and then collect the black sand and gold in the bottom of the pan and dry it, and then blow the sand off, the heavy gold remaining. Most of the gold washing up to that time had been done in that way.

These miners had found a good many pieces of gold in the beds of streams and crevices of the rocks. I saw a piece weighing seven ounces, from a gulch on one of the forks of the American River. Gold dust was rated at \$12 an ounce at that time, about the middle of March "49." About that time a small trading vessel of five or six hundred tons burden, sent out from New Bedford I think to carry articles for sale on this coast, and carry back hides and tallow, arrived in San Francisco, and was with much difficulty warped up to Sutters landing. They had on board, some sheet iron, tin cups, pans, and tin ware of various kinds, nails, and articles of that kind, to trade for hides and tallow. These proved to be just the things wanted in the mines. Capt. Simmons was part owner of the cargo, and I think master of the vessel. These articles sold at most fabulous prices. A little tin cup would sell for half an ounce of gold, a piece of sheet 25 iron, perhaps two feet square would sell for an ounce of gold, and used to cover the bottom of a small hand rocker. Common tin pans sold for an ounce of gold apiece, and all the cargo went in much the same proportion, realising a fortune for the owners. Hundreds of dollars of this kind of goods would swell into tens of thousands of dollars in money or gold dust. When these supplies of sheet iron and nails began to arrive the miners commenced to make small rockers. They put a small quantity of dirt into the rocker, let a stream of water run through, at the same time rocking it back and forth, and while the



dirt washed away, the gold would find its way, down through the perforated sheet iron, and lodge in the crevices, in the bottom of the rocker. This was considered quite an invention, and proved a great improvement, upon the washing of gold, with a tin pan. Along in April and May, they began to make these rockers much longer. They would take a tree cut off a log the required length, and hollow it out, forming a long trough, and put strips across the bottom an inch high, the upper part of the trough would be covered by perforated sheet iron, and on this they threw the dirt. Below the iron, and covering part, or the whole of the remaining part of the trough, on an incline below the iron, a wooden grating. The stream of water was carried by a spout on to the dirt at the upper end, and by constantly rocking the trough, the dirt and stones were washed out, the gold and black sand finding its way down through the perforated sheet iron, and lodging in the cleets on the bottom. The supply of dirt was kept up by one or more men, the rocking done by another, and this was called the Long Tom washing, and proved a very successful way of getting gold during the early days of Placer mining. This finally led to sluicing—

After leaving the American River I came back to Sutters Fort a short time and then made a trip to the Yuba Mines. Fosters Bar was one of the first known localities on the Yuba River when they discovered gold. That was above the present city of Marysville. Foster for whom the bar was named was one of the men who established Marysville which was named in honor of 26 his wife. I visited Fosters bar and several other small camps where parties, or perhaps a solitary man were at work. All the little streams along the foot hills were being prospected for gold, and more or less of it was found every where. It was a rough rude life and scanty food and of the plainest simplest kind, and prepared by the miners themselves. But all seemed happy and contented, and the safety to life and property, was never more perfect and complete, than at this time, all through the then known mining regions.

I came back to Sutters Fort and down to San Francisco, to meet the steamer “Oregon,” then expected, and the second one up from Panama. The steamer Panama was the second one dispatched from New York, next after the “California” but was disabled and put back for repairs. The Oregon arrived in San Francisco I think in April or first part of May, bringing five or six hundred people, passengers and crew. Instead of bringing her up opposite San Francisco they took her round to

Saucelito under the protection of the squadron, to prevent the crew from deserting. Comodore Ap Catesby Jones was then in command of the squadron with four or five vessels here. Capt Simmons whom I mentioned before, and Mr Alfred Robinson the agent of the steamers, and Capt Forbes of the “California” and myself went over to Saucelito in my whale boat, they having no suitable boat for crossing the bay. We went over just at dark. The boats painter was fastened to the steamer, and we went down into the cabin, and were talking with the Captain of the “Oregon” and passengers. Every body on board being anxious to hear something about the gold mines. What they were. Where they were. How to get there, &c. We had not been aboard over three quarters of an hour before an alarm was given that three of the “Oregons” crew had deserted. The upper end of the painter of my whale boat hung beside the steamer but the boat was gone. Nothing could be seen in the darkness, and the captain would not venture to send out any more of the crew in the ships boat as they would not probably return. They had evidently slipped down into my boat by the painter and cut it adrift and let the 27 boat drift away with the tide from the steamer, until they were out of hearing, and then took to the oars. The boat was found afterwards on the Two Brothers Island on the bay towards Benicia. We remained on board all night and the next morning went over to the city in one of the men of wars boats. The “Oregon” had a guard from the squadron on board, and the men were secured, officers and all, to prevent the desertion and abandonment of the steamer as was the case with the steamer “California.” I think none of them were permitted to leave the vessel until she went to sea again. The passengers were mostly taken over in the boats and launches of the squadron. The steamer “Oregon” was very soon dispatched back to Panama. The “California” still lying here without a crew, in possession of the men the Comodore had put on board—

“The “Oregon” was the first steamer that left San Francisco to go down to Panama, for the purpose of engaging crews to man the “California” and to replenish her own, and to carry back the mails, and tidings in reference to California. That was the early part of May “49.” I sent home to New York a package of gold dust, secured in a small tin box that had formerly done service as a pepper box. This gold I had collected in trade, mostly with things I had in my two trunks, worthless to me for use in the rough life we then led in California, consisting of surplus white shirts white vests, kid gloves, one or two pair of fine calf skin boots, and things of that class, which were proper for

New York life, but not very useful in California. These things were bought up at fabulous prices, by young men who had been in the mines, and who were anxious to have a refit in “biled shirts,” as they were termed there.

I had attended one or two law suits in Frank Bates court at Sutters Fort—Daley had some trouble there and I was his counsel, and as the result was satisfactory to him he gave me a purse of gold dust. I objected to taking it, as it seemed out of all proportion to the services I had rendered him. Frank said I had better take it, as he had plenty more and it would be thought discourteous by my client to refuse. I asked Frank how much it was worth, he said about a thousand dollars. The case occupied two or three days longer, and finally resulted in a compromise, Daley getting all or nearly all he wanted. I drew up the papers for a settlement, and they both made up another purse of \$2000. and gave me for a final settlement. That was the first fee I recd in “California.” A few days afterwards Daley sent me over to Sutters Fort a very fine saddle horse, all nicely equipped with a complete “California” outfit. He was a fine large horse well broken to the saddle. That was a little present, he said, that he wanted me to take, and have a horse of my own to ride over to his Ranch sometimes to see him. He lived on the Cosumnes River and had a large cattle ranch, well stocked with cattle and horses. These cattle he sold off gradually to the miners afterwards at enormous prices. I did some other business for parties litigating, and my clients were always disposed to pay liberally.

Some of the gold dust I sent to New York by the “Oregon” was the result of these services, and the sales of things I had no use for. I had this on hand, and some besides and as it was of not much use to me then I thought I would send it to show my friends at home what there really was here. That gold dust was kept on exhibition some little time in New York, and then sent to the Mint at Philadelphia and coined, turning out near \$3,000—and the coin was also on exhibition in New York—That did not help to allay the gold fever among my friends in that quarter.

In regard to my coming to California, at that early day, I will explain a little how it happened. Mr. Benedict was an elderly man, an old practitioner, who was disposed to live rather easily, after he had made his fortune. He had taken me in to his office really to do the work of the concern. There

was a great deal of business, and I worked very hard, and my health began to fail, my lungs not being very strong, and I had arranged to go to Cuba to spend the winter of "48-49."

When this intelligence of the discovery of gold was received on the first of Decr. "48." Mr. Benedict as well as Messrs. Howland & Aspinwall said to me "Go on to California you 29 can just as well go there, and let us know about this; see whether those fellows out there are humbugging us." The opportunity seemed favorable, and I thought I might go to California and pass the winter; and the next summer make my way back home. Upon arriving here and finding things as I did, and receiving such liberal compensation as I did from Daley, and others, I concluded it was a good place to stop in. The climate agreed with me, and it was wonderful how rapidly I recuperated. Things were so attractive I could not resist the temptation to stay on, and finally did not think of returning home.

After the "Oregon" sailed I went back to the Fort and I there met Sam Norris who had been an old Californian. He and Frank Bates proposed to me that we purchase some land of Sutter, and lay out a town at the mouth of Feather River. We did so, buying some 1800. acres on the east bank of the Sacramento right opposite the junction of the Sacramento and Feather Rivers. I went up there and superintended the laying out of the little town. On my first arrival at Sutters embarcadero, they conceived the idea of laying out a town on the banks of the Sacramento, and perhaps as early as the first of April, they commenced making their survey of the site of Sacramento City, and laid out the town, and commenced establishing trading points there, as people arrived from abroad. Our town was called "Vernon." That was thought to be the head of navigation on the Sacramento. It assumed quite a little importance as a trading point for the Feather River Mines, and later began to be in demand, and I sold quite a number for joint account. To run out the history of "Vernon" briefly. That summer it grew considerably, and in the fall of "49," it had a population of some six or seven hundred people. When the winter rains came on, that whole country was flooded, and one vast sea of water surrounded the little elevation where the town was situated, stretching in every direction, and boats could navigate almost any where acrost the plains. That put a quietus to the town of Vernon. Foster commenced laying out the town of Marysville that winter, on the highlands

on the north side of Yuba River, and that superseded "Vernon," and in three or four 30 years there was nothing left. The buildings were taken down and carried to Marysville or Sacramento.

During my stay at Vernon in the summer of "49" I made frequent visits to all the new mining camps along the Yuba River and thence south on Bear Creek and the north fork of the American River, and was pretty well acquainted with their rapidly increasing development, and population. The ocean fleet began to arrive in San Francisco in June, and the constant stream of newly arrived emigrants kept increasing these camps and spreading over the territory of country along the foot hills, where no mining had been attempted before.

The roads leading out towards the mountains, from Sacramento, Vernon, and other points on the Sacramento River, where the water emigration landed, were strewn with every conceivable variety of gold washing machines, and useless articles they had brought along to facilitate the operation of gold washing. So far as I know, not one of these many contrivances and inventions proved to be of service, but were utterly valueless, and abandoned along the roads. The way to the mines from these points were well defined by these abandoned wrecks, pickle jars, ale bottles, debris of camps, and bones of dead animals, and sometimes the melancholly sight of a lonely grave, where the last remains of some hopeful miner had sunk to rest, before reaching the golden goal for which he had struggled.

Some time in the month of July "49," I received a letter from Bezer Simmons, who was then at San Francisco requesting me to facilitate the visit of Thos. Butler King and his escort, who had come out, under appointment from the General Government, to ascertain the condition of affairs in California, and to see what was the truth concerning the gold discoveries &c. and who proposed to make a visit to the mining regions. Mr King had arrived in June, and was making his way up there in July. He came across, from Benecia to Sacramento River, opposite the mouth of Feather River, with his escort, Genl. P. F. Smith and his staff and Com. Jones of the Navy and his staff, with about twenty or thirty cavalry under command of Lieut. 31 Stoneman, and an array of army baggage waggons, presenting altogether quite a formidable array.

Thos Butler King was formerly in the U. S. Senate<sup>\*</sup> from Georgia and had been sent out by the U. S. Government as a Special Commissioner to report on the condition of affairs here. They came across the river at Vernon, and requested me to go with them to the mines, as a kind of guide, as far as I knew, and I did so. We visited the mines on the Yuba, which were only three or four camps. We crossed over to Bear River, striking the overland emigrant trail which was afterwards established, and on which some of the early trappers had made their way across the mountains into California. It was an unknown rout at that time. We went thence to the north fork of the American River, and followed that down, finding small parties from time to time, prospecting along the river, and some mining. We then went to the middle fork of the American River. There was but little mining done on the upper waters of those streams, as the population was yet small and confined to a few points further down. Mr King was one of those high toned Southern gentlemen, who not having had much experience in rough life, did not know how to adapt himself to it, and insisted upon the days march being made in the middle of the day. He would rise in the morning after the sun was well up, and after making an elaborate toilet, having his boots blacked, and dressing as if he was going into the Senate Chamber, would then take breakfast, and by the time he got ready to start it would be 8 or 9. oclock, the sun would be hot, and the marches were made then, in the hottest and worst part of the day. Genl Smith protested pretty plainly against this course, but Mr King was the great man under the administration and the others had to submit to his time for moving. Genl Smith said to him "Not only you but all the rest of the party are rendering themselves liable to fever and 32 sickness by marching at this time of day. We ought to go in the early morning and lay by in the middle of the day. But King would not agree to this, so we made our marches midday, in the hot July sun. I began to feel premonitions of fever coming on and took my leave of the party near the spot on the south fork of the American River where Marshall first discovered gold, and made my way to Sutters Fort, and was laid up with fever for three weeks. The party went down the south fork, and then went over to the Mokelumne River to the southern mines. Mr King brought up at San Francisco and came near loosing his life with a fever contracted on that expedition.

Crosby is in error at this point. King had been a state senator in Georgia during the thirties. He was elected to the national House of Representatives five times, for terms beginning in 1839. He resigned his seat for this federal mission to California. In 1852 he became collector of the port of San Francisco, but shortly returned to Georgia.

## THE STATE CONSTITUTION OF 1849

GENL. RILEY then military Governor of California, had been communicating with people in different parts of the State, as to the propriety of calling a State Convention.\* He had corresponded with some people at Sacramento, and sent a communication to Genl Sutter, advising the calling of a State Convention, and the formation of a State Government. He said he was powerless to enforce any law because all his men had disappeared, except a few officers who had remained with him. He could not put a sentinel outside the gate for fifteen minutes, but he would be gone musket and all. He thought the people had better call a convention and frame a Government of their own, for the State. His suggestions were favorably received, and he issued a proclamation on the 3d day of June 1849, calling a convention.\* The Delegates were to meet at Monterey on the 1st day of Sept. The election of delegates was to take place by the people about the first of August. At this election I was one of the delegates, elected from the 34 Sacramento District, to attend the Constitutional Convention, at Monterey. The delegates from the northern Departments, mostly met at San Francisco, just before the 1st of September, and the Pacific Mail Co. were kind enough to volunteer to take the delegates down to Monterey, and touch in there to put them off. Most of them from the northern part of the country went down on that steamer. Of course we did not arrive there on the first, but about the 3d pretty much all the delegates were in Monterey. Genl Riley in his proclamation had named four from Sacramento and four from the San Joaquin Districts. When the delegates came together, they found there was a great disparity in representation. Those districts having augmented so rapidly, as they embraced pretty much all the mining country. They insisted upon a larger representation than had been mentioned in Gov Rileys Proclamation, and for that reason, and very justly, there was a larger delegation allowed to Sacramento, San Joaquin, and San Francisco Districts. In fact they passed a resolution after a few days, admitting all delegates who had been elected from those large Districts, who had received a hundred votes. Many of the delegates from the smaller Districts had not received even that number of votes, but there was no question about their right of representation, on that account.

The next few pages are closely similar to the manuscript "written for the Society of California Pioneers supplemented with material in the Bancroft Library" printed as "The First State Election in California," in *Quarterly of the Society of California Pioneers*, V, 65-75. The supplementary material referred to is probably the Crosby "Events in California," upon which H. H. Bancroft leaned heavily in writing his account of the Monterey Convention. See his *History of California*, VI (San Francisco, 1888; *Works of* . . . XXIII), 284-304. The text of the proclamation is in J. Ross Browne, *Report of the Debates in the Convention of California, on the Formation of the State Constitution, in September and October, 1849* (Washington, 1850), pp. 3-5.

The people had deserted from a good many of these Districts, and gone to the mines, and therefore the vote was very light. Any body who was fairly elected was admitted. Some who were actually elected never appeared at the convention, and the broad ground was taken that when there had been a fair expression of opinion by a respectable neighborhood it should be represented. It was an important step to be taken, and it was desirable that the whole population should be fully represented. Gov Riley encouraged that liberal course. He repeatedly said to us, "I am powerless to *enforce* any law: in fact I have only a few officers on my staff who remain faithful to me. It is very important to you, gentlemen, to form a Constitution and State Government, now that you have come together, that the people will feel confidence in, and that can be enforced. It is the people alone, who 35 can enforce law and order here, and not any military force the Government can send here."

He repeated that several times during the Sitting of the Convention, and took a lively interest in its deliberations and progress. He was the last Military Governor, and was a good man.

He succeeded Mason, who succeeded Fremont. It was thought that great injustice had been done Fremont, by being superceeded by Mason.

Freemont was a very nice little gentleman, but I thought as many others did, that Jesse Benton Fremont was the better man of the two, far more intelligent and more comprehensive.\* She was well educated, and had been her fathers private secretary, for many years, before her marriage and had a comprehensive view of public matters. I noticed a statement in some paper within the last year that she was at Monterey during the sitting of the Constitutional Convention, and dictated more or less of the constitution, and was very active in procuring its creation. That is not the fact. She was not at Monterey during the sitting of the Convention and to my knowledge had nothing



to do with it. I met her at San Francisco, before we went down. She was somewhat invalided, was complaining of rheumatism, and was not able to walk very much. What part she may have had in procuring the admission of the State after the adoption of the Constitution by the people, I do not know. I am sure she never had any part or lot, or influence, in procuring its creation, or that clause of it making California a free State.\* 36 What part she took after that, when the Senators and Representatives went on to Washington from California I do not know. Her husband Col Fremont was one of the first Senators elected by the Legislature of California when first the State Govt. was inaugurated and it is more than likely she used her influence in Washington, to procure its early admission.

The couple under discussion are, of course, John C. Fremont (1813-1890), the "pathfinder" or "pathmarker" of the West, and his wife, the daughter of Senator Thomas Hart Benton of Missouri. Crosby evidently was an early member of the critical school of thought about the man who was to be in 1856 the first Republican Party candidate for president.

Mr. Robinson points out that Crosby's denial that Mrs. Fremont was in Monterey during the Convention conflicts with evidence of her presence which has been accepted by recent scholars. The evidence is that of Mrs. Fremont herself. For the acceptance of that evidence, see Allan Nevins, *Fremont, Pathmarker of the West* (New York and London, 1939), pp. 377-87; Cardinal L. Goodwin, *John Charles Fremont, An Explanation of his Career* (Stanford University, 1930), p. 188; and Catherine C. Phillips, *Jessie Benton Fremont, A Woman Who Made History* (San Francisco, 1935), pp. 142-63. This testimony to the contrary, the editor thinks that Crosby's denial deserves consideration and a greater presumption of truth than Mrs. Fremont's story does.

That story is told in *A Year of American Travel* (pp. 140-51), which, as it was published in 1878, the year in which Crosby was writing, may have been the irritant, or the source of the irritant, which provoked Crosby's denial. Mrs. Fremont was to repeat the point of her presence and influence at Monterey in "Fremont's Memoirs," which she wrote, with the help of Frank P. Fremont, about 1891 (Bancroft Library MS). In both accounts she is very circumstantial. She needed a laundress, and was offered a chance to purchase a Negro woman. She refused, and word of this episode led to her being called upon by members of the Convention, and to her telling them that she, Senator Benton's daughter, would neither own nor use a slave. (The story increases in definiteness, between 1878 and

1891.) Her temporary home in Monterey became, she says, the home of the “antislavery party” in the Convention, and she entertained the members more than once.

But there are many reasons to doubt Mrs. Fremont. In her 1878 story, she says that she returned to San Francisco about three months after her arrival in California, which had been in early or middle June. She then bought and occupied a ready-made house there, and went later to Monterey, ahead of the rainy season, in October. As the Convention met from September 3 to October 13, these events would have prevented her being in Monterey during any considerable part of the six-weeks' meeting. The later account by Mrs. Fremont has the same house-purchase occurring before the Convention, and her leaving San Francisco to be in Monterey in early September. When to the contradictions and the confusion of these accounts are added the facts that Mrs. Fremont was only twenty-five in 1849, and that she wrote in a long retrospect of excitement, sudden prominence and wealth, illness and childbirth, and always in defense of her husband, her accuracy becomes doubly subject to suspicion. Her mention of an “antislavery party” at Monterey, and her implications of wielding influence for Negro freedom in California, are all out of line with the history of the Convention. The decision against slavery there was unanimous; and the divided votes were on other questions of Negro policy. Mr. A. A. Gray, of Berkeley, who has studied exhaustively the men and conditions of the Convention, generously permits me to say that he has seen no contemporary mention of Mrs. Fremont in Monterey, and that he cannot believe that her entertaining the delegates, if actual, would have gone unmentioned by others than herself.

Could not Mrs. Fremont have met a number of Convention delegates in San Francisco, as she did Crosby, and have had there some anti-slavery conversations? From such an origin, she might have inflated the stories of 1878 and 1891.

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Col Fremont had taken a very active part in procuring the military occupation of the country, and had many devoted friends among the then old Californians. He came in a little time before the declaration of the war with Mexico, and the northern settlers flocked round him when he reached the Sacramento Valley, as a sort of nucleus and standard bearer to augment military force. They

had raised the bear flag before the declaration of war with Mexico, and the proposition was to inaugurate an independent community—not independent of the United States I think: I suppose they intended to operate in the interest of the United States. Fremont was on an exploring expedition, a military officer of the United States, and of course did not propose to renounce his allegiance to our General Government, but the northern settlers flocked around him for protection and to increase their aggregate strength. The bear was the lion of the forest, and the symbol of strength, and so was placed on the flag, and for that reason, was incorporated in the Seal of the State. I do not know that the bear flag men had anything to do with incorporating that emblem in the State Seal. There was not much said about it at the time of the adoption of the Seal in the Convention. It aroused the ire of some of the Spanish members of the convention. I know Genl Vallejo rather objected to it. He thought the bear should be represented in the Seal as under the control of a Vacquero, with a lasso round his neck. The General was a little piqued by the success of the Americans in the earlier days, and during the bear flag times, and perhaps naturally enough, in fact that party arrested him, or took him prisoner.

When the Spanish members spoke in the Convention, they spoke in their own language generally, and had it translated by Mr. Hartnell, Govt Translator, and Translator to the Convention. Some could speak English pretty well, and could understand what was going on. They had less confidence to declaim in a body like that, more from embarrassment than from want of knowledge of the English language. Carrillo was from one of the lower counties. He was a man of decided 38 character, a Spaniard, a man of a good deal of native force and common sense, and prejudiced against the Americans. He was a pure Spanish Castilian.

De La Guerra was probably the most accomplished and educated of the Spanish Delegation. The Spaniards served in the Convention because they saw the necessity for so doing: recognizing the fact that the American occupation was inevitable, and they submitted with what grace they could. De La Guerra never felt very cordial with the Americans. He was afterwards a member of the State Senate and I had occasion to see and know him very well, as we were both members of the same body. I think that kind of feeling did not prevail with most of them, to the extent shown by him.

De La Guerra was finely educated and used to declaim in English in the Convention, and also in the Senate afterwards. He received his English education in England; owing to that fact, I think he had a very considerable respect and preference for the English over the Americans. Lewis Dent was an Englishman a Delegate from Santa Barbara, and when De La Guerra said “Yes” Dent said “Yes” and when De La Guerra said “No” Dent said no also. \* L. W. Hastings came from Ohio here he had been quite a frontiers man, and came in here over the mountains at an early day. He seemed to have considerable knowledge of the geography of the Country, and took a prominent part in devising and fixing the boundary of the State, in fact prepared a manuscript map, by which the convention was considerably governed in adjusting the eastern boundary of the State, and in that respect was of much service in the body.

Mr. Robinson notes that Crosby is in error in this recollection. The editor's count shows that when Dent and De la Guerra both voted, they were more often in disagreement than agreement; and that Dent voted many times when De la Guerra failed to do so (Browne, *Debates, passim*). The master's thesis of Ely Bashor, “Evidences of Political Parties in California, 1848-1850,” deposited in the Stanford University Library, was suggestive on this point.

There was a good deal of talent in the convention. I don't believe there was ever a deliberative body of men collected with more patriotic sentiments and purposes than prevailed in that 39 convention, or one that went to work with more determined zeal, to accomplish the formation of a good constitution, that should be equally serviceable, conservative, and protective, of the interests of the people. The brief time during which they were engaged in their work, and the result of their labors showed that they applied themselves with energy and determination—Capt Sutter was a sort of ornamental appendage to the convention without much force, did not carry much weight, and had very little influence. He was of a peculiar organisation. He had great taste for military affairs, and the discharge of arms seemed to create an enthusiasm in him. The last day we met, when we signed the constitution and dispersed, Gov Riley ordered a salute to be fired from the fort, while the signing was going on. It was with the greatest difficulty that Sutter could restrain himself on this occasion; he would get up and shout, and exclaim “This is the proudest day of my life. It does my heart good to hear those cannon. But in the making and detail of the constitution he had very little influence and did very little work.

Genl Vallejo applied himself in the convention to the work in hand with considerable energy. His greatest anxiety seemed to be to prevent too liberal "Americanising of the country, and he frequently suggested many of those regulations peculiar to the Spanish Government.

John McDougal (afterwards Governor)<sup>\*</sup> was something of a working member but he drank too freely, and destroyed his usefulness in a great measure.

McDougal was governor for a one-year term beginning in January, 1851.

M. M. McCarver was a character, an original, a native of Madison Co. Kentucky. He came overland, went to Oregon, and lived there many years, the gold discoveries brought him down here, and he was a delegate to the Convention. He would raise a laugh in the body more frequently than any one else perhaps, by his good natured blunders. His interest being in Oregon he could not forget that he belonged there and though he was in California and a delegate from the Sacramento District he would often speak of his constituents in Oregon of his neighbors and

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39 friends, what they would say as though it was all one state, and was constantly making absurd blunders and mixing up things generally. Dr. Gwin<sup>\*</sup> has always been friendly, and we are friends today; but when he went to the Convention he assumed a very haughty and dictatorial attitude; in fact on the way down there on the steamer from San Francisco and after he got there he assumed to himself the leadership and direction as to what should be done, often saying he was going to have this or that done, or he was going to propose so and so and affected that air of superiority that to the average American is offensive; and the men who came out here at that time and under the circumstances that brought them here, were men who did not recognize any particular superiority or supremacy or dictation on the part of anybody. We all supposed that one was about as good as another. When we arrived at Monterey it was understood that Gwin had a copy (in fact we knew he had) of a State Constitution with open lines and blanks to be filled in. He had in his pocket a combination of the State Constitutions of Ohio and Iowa. He had it printed taking from the Constitutions of those States what he liked and adding to it to suit himself, and had spaces to

fill in what might be required, and blank dates. When the Convention met Jacob R. Snyder from Philadelphia a surveyor by profession, having been some four years in California and a prominent man in the raising of The Bear Flag a bold outspoken man of large physique as tall as Gwin and of rather imposing presence, got up and said that he understood that Mr. Gwin had not only come down there for the purpose of being President of the Convention but he had also brought 41 with him prepared copies of a Constitution that he expected to have adopted at his dictation, and was in fact to be the embodiment of the Convention, that the rest of the delegates were to be merely dummies to represent numbers and sections and sanction whatever he proposed. It was done in a peculiar way and nobody but Snyder could have done it without giving personal offense but being an old Californian and frontiersman he could express himself freely and he blurted it out in his plain way and it only had the effect to create universal merriment and laughter in the Convention.

Crosby has a good deal to say, in several passages, about William M. Gwin (1805-1885), senator from California, 1850-1861. Born in Tennessee and educated in Kentucky, Gwin had practiced medicine in Mississippi a few years before he entered the politics of that state. He was elected to Congress in 1840, but served only one term. After a few years in New Orleans, he came to California in 1849 with political ambitions elevated. His senatorship, clouded after 1859 by the duel in which his supporter Judge Terry had killed his colleague and rival, Senator Broderick, terminated with the opening of the Civil War. During the war years his interests were again southern: he went to France and Mexico in behalf of southern settlement in Mexico. After 1866 he lived out his years in obscurity, in New York City.

It brought Gwin to his feet at once and he could do no less than disclaim anything of the kind as regards bringing a Constitution there for the purpose of having it adopted. Then Snyder said if that was the case he would nominate Dr. Semple as President of the Convention and with a sort of laugh he was elected. Dr. Semple was a tall and bony man a native of Kentucky, who came from Missouri and who had been five years in California a printer by profession, over six feet in height, angular, with Kentucky characteristics, with a good deal of native sense not very highly educated, but fairly so and having a good opinion of himself. After the election of Dr. Semple to the Presidency of the Convention, Dr. Gwin subsided completely and took a back seat on the floor and from that time to the end of the Convention was exceedingly conciliatory, presenting his propositions with very much tact and skill and courtesy and won upon the Convention so much that I think he was in good fellowship with all the delegates. I know this change in his bearing was often remarked among the members. He seemed to show a consummate skill for ingratiating himself, making friends which

aided a good deal to his success afterwards. I was induced to vote for him as U. S. Senator because he was known as an extreme Southern man and unless we sent some such man as that to Congress we had no chance of being admitted as a State as the Government was Southern in character and the admission of California to the Union was paramount to every other consideration. We needed a State organization and government for 42 the protection of our lives and property. People were coming in by thousands and tens of thousands and we had not a territorial government even and it was thought a territorial government would furnish us very little protection. A State organization with Counties and Townships with the administration of the Law in the hands of the People, letting those communities take care of themselves under a state organization was very desirable, and it was deemed important to secure it if possible. Every man carried his code of laws on his hip and administered it according to his own pleasure. There was no safety of life or property so far as the intervention of law was concerned there was no police. Spanish law was in operation here then and the only way it could be enforced was through the Military Governor and the Prefects and Alcaldes holding office under him. It was an unknown system to our people and we were absolutely in a state of chaos, society was entirely unorganized, and the recognition of our status as a state with a state government seemed to be the one essential thing to give us a foundation to start upon; and that secured we should be in a position to establish those community organizations of counties and townships and put the administration of the law in the peoples own hands. Nothing else was considered to weigh a moment as against that and I think very wisely too. Fremont was elected U. S. Senator by acclamation on the first ballot; he was the favorite of the old Californians here who were represented and they had great influence too in giving tone and popularity to Fremont. Then came the question whether Capt. Halleck<sup>\*</sup> or some southern man should be the colleague of Fremont or whether another northern man should be sent. If another northern man had been selected it would have been so palpable a cut or insult to the South that 43 the State never would have had a chance of admission. I think that but for Gwin, Halleck might have been elected or Thos. J. Henley who was prominent and had considerable influence.

The reference is to Captain Henry W. Halleck, who was to be Lincoln's none-too-successful general in chief from 1862 to 1864. Like Crosby, Halleck came from central New York; at the moment he was the secretary of state of California, under General Riley, the military governor. Halleck was the author of a *Report on the Laws Relating to*

*Lands and Mission Properties in California* (Washington, 1850), one of the two early official reports on Spanish and Mexican titles in the state.

Henry A. Tefft was a New York man and a good worker in the Convention. Stephen C. Foster from Los Angeles had considerable influence with the Spanish Population. Pacificus Ord brother of Gen'l. Ord was a working man and had considerable to do with the formation of the Constitution. I was sent from Sacramento District. I was pretty young in those days. The Finance Committee of the Convention originally appointed failed to give much attention to that important matter; in fact they were called off to other duties. I was added to that Committee with Capt Jos Aram, Joel P. Walker and Elam Brown, who were plain farmers as the other members of it and they turned the matter over to me, expecting me to do whatever was done, and as the acting chairman of the committee, I had to do with the correspondence with Gen'l Riley in reference to the payment of the expenses of the Convention. The Civil Fund that was collected by the Military Authorities here from the Customs dues after the Millitary occupation and up to that time amounted to \$600,000. It went into the coffers of the Millitary Officers here. The Paymaster, I think, was the custodian of that fund and more or less of it was disbursed here for Millitary purposes. When that fund was reported to the War Department the Secretary said that Department had no right to it and what had been expended from it should be returned from the appropriation for Military purposes. The Sect'y of the Treasury also disclaimed any right to it. It remained in that uncertain way and we debated whether it should be claimed by the people of California and restored to the merchants of whom it had been collected or whether it should be placed to the credit of the State. The sentiment of the Convention was that this fund belonged to the people of the State of California and should be used for their benefit, it having been collected out of them, the Government of the U. S. having given no protection here, other than military protection. In corresponding with Gen'l Riley as 44 to whether he would appropriate from that fund, he hesitated at first but finally said he would pay the expenses of the Convention out of it. I had considerable correspondence in that connection.\* The other point that I took most interest in and did most work in connection with, was in the Judicial Dept. I took an interest in the organization of the Judiciary of the State and did what I could to direct the Organization according to my conceptions for the best interest of the people. I was opposed to an elective Judiciary. I doubt its policy now. My opinion was that an elective Judiciary was not the



safest, not calculated to bring to the bench the best talent or the best decisions. That a man who depended in the popular vote for his election was likely to cater more or less to popular sentiment irrespective of the exact enforcement of the law. That is a point about which jurists and statesmen differ now. I took the position that a man whatever guards might be put about his nomination whether he be nominated by the Governor and confirmed by the Senate or by both houses of the Legislature should be removed from the turmoil and pernicious influences of a popular election. My idea was to give a life term or during good behavior with a salary sufficient to ensure him a fair competence enough to live on with something for his support after he became too old for his work: and I did what I could to prevent the elective judiciary. It went against me because the sentiment of the Convention was the other way. Outside of the law 45 profession I am inclined to think that the elective judiciary is popular; but in the profession I am sure that nine tenths of the lawyers are in favor of an appointed judiciary and a term for life or during good behavior.\*

The report of the reconstituted finance committee, signed by Crosby as chairman, recommended per diem allowances for the secretary, sergeant-at-arms, doorkeeper, page, chaplains, interpreter, clerks, and assistants employed by the Convention. It reported the negotiations which were being transacted with J. Ross Browne for printing the proceedings of the Convention. It reported also that General Riley had indicated his willingness to pay part if not all the Convention's expenses from the civil fund. (Transcript of report, undated, in the Huntington Library.) For the proceedings of the Convention on these points, see Browne, *Debates*, pp. 30, 95-107, 152-53, 163-64, 317-22. A share of the civil fund was actually used for the expenses of the Convention, an anomalous arrangement certainly, but a common-sense one. For the history of the fund, and the continuing controversy about it, in California and in Washington, see Joseph W. Ellison, *California and the Nation, 1850-1869* (Berkeley, 1927), pp. 108-19.

Crosby introduced the Convention's discussion of the article on the judiciary, and took part in it, as he says, from the point of view of the opposition to an elected judiciary. See Browne, *Debates*, pp. 212, 215, 233, 239, *et passim*.

There was a great deal of work done outside the Convention perhaps more by consultations outside than by public debate. The time was so short most of the determinations were made by discussions in Committees and interviews outside of the public sittings and debates. In looking through the debates you see how short and meagre they are. A great many of the men most active and influential in the making of the Constitution hardly appeared as debators on the floor.\* Myron Norton the Chairman of the Committee to prepare a draft of a Constitution or a portion of it for the consideration of the Convention was one of the hardest workers in the body and yet you see

very little of him in the debates of the Convention. He was a lawyer by profession and did much in selecting and digesting the different reports that were submitted for the public action of the Convention.

Crosby himself debated relatively little, and never at length.

Monterey was the Spanish Capital of the State and that is the reason why the Convention met there. It was the port of entry for California when the subsidy was given to Howland and Aspinwall; my recollection is that their steamers were to run between Panama and Oregon touching at San Diego and Monterey to leave mails for California. San Francisco was not considered then and came in afterwards.

J. M. Jones was an extreme Southern man about the only one who was persistent about the incorporation of a slave clause in the Constitution. He confessed great hostility to the opposite idea. Thos. O. Larkin had been U. S. Consul at Monterey. He was an efficient member, entertained the delegates at his house; was very hospitable. He was a New England man of education 46 a man of a good deal of character and ability; an honest man withal. He would every day entertain a certain number at his dinner table also at lunch. He kept open house all the time where they could come and go. His table was always set for eight or ten extra. He was a man of some means and had a large house. His wife was a superior woman from New England also, and quite popular. He was very suggestive in the Convention particularly in that part relating to commercial affairs. Francis J. Lippitt was a lawyer from San Francisco quite an efficient man. Ben H. Lippincott was one of Fremont's men, a good natured fellow. Fremont's men scattered in various directions, became miners, ranchers, speculators &c. Ben F. Moore was the most disagreeable man in the Convention. He was from Florida and went to Texas, was a delegate from San Joaquin, carried an enormous bowie knife & was half drunk most of the time. Don Miguel Pedorena from San Diego was from Andalusia in Spain. He was my room-mate and a very elegantly educated Spaniard; one of the most accomplished Spanish scholars and gentleman there was in the country. He was strongly American in his sentiments and had a very great influence in conciliating the Spanish element. He was a man of enlarged views and had been a resident twelve years before the sitting of the Convention. He readily appreciated the propositions and their fitness to the new order of things; seemed to

comprehend what was coming; seemed to realize the tremendous wave of emigration flowing to these shores and what would follow, seemed to appreciate these things better than any of the other Spaniards there. Gov. Burnett was in the mines at that time. Gov. Riley appointed him after the Convention, one of the Judges of the Supreme Court. I have no doubt of his honesty of purpose in every respect. He is politic however. The fact of his having changed from the religion of his fathers to the Catholic faith to my mind was a Jesuitical trait. I think he did it from conviction probably, but that is the tendency of his mind. He is very open in his professions of friendship and if he doesn't grant you any favor you may ask him he will decline in that careful way not to give offence if he 47 can help it. He hadn't what we call in California phraseology, *backbone* enough to retain his position and to fulfil what might be required of him in emergencies and for that reason he resigned. Many questions came up in those early days requiring decisive action on the part of the Executive,—the organization of these communities in the mining districts, the “Hound” developments in San Francisco, the various “Vigilance Committee” developments and things of that kind which proved too much for him; \* also the financial questions connected with State affairs, the administration of the laws and their enforcement, the recommendation of measures to the Legislature the assumption of responsibilities at times by the Executive where the law or constitution might be susceptible to a liberal construction or otherwise. He had not the backbone; the Gen'l Jacksonism in his composition to maintain the position to which he had been elected. He lacked confidence in himself. Within the line of duty as he saw it, he was correct in his conclusions but he was moderate and timid in all he did. To illustrate the man and his peculiarities I will mention that we were much put to it for finances as you may well suppose and we proposed the levying of a tax on the Chinese and one thing and another and I asked to have Joe McCorkle appointed as Collector of this revenue. Joe was up the country and could not come down to look after things. He was a good thorough going fellow, efficient and would have collected money for us but Captain Richardson the same who was afterwards shot by Cora I think, was here on the spot and the San Franciscans urged his appointment instead of McCorkle who would have done the work much better. The Governor could not resist the pressure upon him and appointed Richardson and afterwards wrote a letter apologising for it. 48 There was no necessity for it and I mention this fact to show the character of the man. \*

Wm. M. Steuart who was connected with the Navy was a delegate from San Francisco and to him belongs the credit of writing the address to the people of the State of California that was signed by the members of the Convention asking the people to consider and ratify the Constitution. This address of the Delegates to the people was printed and distributed with the Constitution.<sup>\*</sup> The Constitution was prepared under the direction of the Engrossing Committee of the Convention and engrossed by some clerk of the military department who made a handsome copy that was signed. What surprised us perhaps more than anything else was the unanimity with which the clause prohibiting slavery was passed. We had expected very considerable opposition from the Southern element but if you will look at the composition of the Convention you will see that New England and New York and Pennsylvania largely predominated though almost every state in the Union was represented.<sup>\*</sup> Gwin with great good grace, advocated the adoption of the clause prohibiting slavery. I think his pocket Constitution looked more to the separation of the State on this 49 point but he hardly thought it politic to offer it. Just at the close of the Convention the Prefects of the different districts were ordered to submit the Constitution for the ratification or rejection of the people. These districts were the old Spanish divisions, San Diego, Santa Barbara, San Joaquin, Sacramento and others.

Crosby here brackets together three quite separate developments: the informal mining districts, with their self-enforced regulations; the “Hounds,” an anti-foreign, uniform-wearing band in San Francisco during the gold rush, who justified themselves as “regulators” but who had to be suppressed as terrorists; and the well-known Vigilance committees. Yet all three are in some degree to be attributed, as Crosby hints, to the youth, the formlessness, and the forcelessness of California institutions and laws. Strength and initiative were indeed virtues to be prized in a state governor.

In the letter of apology, April 24, 1852, Governor Burnett explained that he understood that McCorkle would not have accepted the appointment. (Photograph in Huntington Library.) Crosby's severe judgment of Burnett, here, evidently mellowed with the passage of time. In one of his public addresses he paid tribute to the “honest integrity” of the man. (Transcript, n.d., in Huntington Library.)

This "Address to the People of California" is printed in Browne, *Debates*, pp. 474-75; and the text of the Constitution, with Governor Riley's Proclamation, on pp. iii-xiii.

For the comment of another observer of the people and the conditions of the convention, see Samuel H. Willey, *The Transition Period of California, 1846-1850* (San Francisco, 1901), pp. 90-124. Willey was a new resident of Monterey at the time, and one of the chaplains of the meeting.

Cardinal L. Goodwin's *The Establishment of State Government in California, 1846-1850* (New York, 1914) is the authoritative modern study of the convention, but his purpose is to state the issues and the decisions, and he gives little attention to the conditions and the working of the meeting. Bancroft is more ample on such points than Goodwin, though perhaps he is a less accurate reporter. Bancroft acknowledges a considerable debt to Crosby's account, which Goodwin seems not to have used. (See Bancroft, *History of California*, VI, 285, 287-289, 302).

There is one point I wish to speak of & that is the fixing the boundary of the State.\* The question came up as to where the eastern boundary should be. Mr. Hastings, Mr. Snyder and others who had crossed the mountains and trapped in them said it would be impossible for us to exercise any jurisdiction east of the Sierra Nevada, because there was one half the year in which it would be impracticable, if not impossible, to cross the range and the portion of the state east of the mountains would be cut off from the portion west.

On the boundary question, see Goodwin, *Establishment of State Government in California*, chap. vii.

A proposition had been made to run the line from the principal source of the Colorado River north to the Oregon Line and take all west of that into the State of California but this plan did not meet with favor for the reasons just stated: and under the impression that that portion of the State east of the mountains would be so isolated from the great body of the State it was determined to run the line as near the crest of the Sierra Nevada Range as a north and south line would permit. Mr. Hastings is entitled more than any other man to the credit of fixing that line. He had more to do with it by presenting arguments & working for it than anyone else. By this arrangement we got all that

was of any particular advantage to us. Had the State enclosed the portion east of the mountains as proposed it would have been too extensive and the two parts lying east and west of the mountains would have been at continual variance and that arrangement would have been a strong argument for dividing up the State and made things unsatisfactory. The only argument for dividing the State into north and south was found in the slavery question the north to [be] free and the south 50 slave. Nobody claimed any advantage from dividing the state east and west. On that point there was unanimity of opinion: they said “we belong to-gether and we will keep to-gether this side the Sierra Nevada; our interests are identical and that is what we want.”

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## **LAUNCHING THE STATE GOVERNMENT**

THE Constitutional Convention was a very harmonious body and I think the members only had the interest of the people at heart and desired to get through as soon as possible and have the State admitted without delay. Everybody seemed to be impressed with the necessity of having a State organization for the protection of persons and property. If California had not been admitted as she was I think there would have been a great scene of anarchy and confusion here. It might have led to the organization of an independent republic on this coast, might have drifted into that; that was whispered about and discussed. If soldiers had been ordered here by the Government, they could not have been kept here. I think the feeling of loyalty to the Government and preference for law and order which prevailed among the people prevented any loud talk in reference to what would have been the consummation of the thing if the State had not been admitted. By the 1st of January 1850 we must have had a population in the State of seventy-five thousand people; the emigration by sea and land had aggregated probably more than that; and the estimates ran as high as a hundred thousand people while we were organizing the State. Think of that number of people here just perfectly lawless. Prior to the adoption of the Constitution under the Military government the Governor appointed Prefects for the different districts and they appointed Alcaldes and reported them to the Governor for approval under the laws of the Mexican Republic which prevailed here until the installation of officers 52 under the laws of the United States. As soon as the Constitution was adopted and the organization of the State Government went into effect, Genl. Riley surrendered

everything to his successor under that Constitution who was Gov. Burnett. All the laws then prevailing were superceded by the laws we enacted when we organized the State Government. After the first legislature the Alcaldes ceased. We organized courts and enacted laws and just so fast as we did so the officers under the Spanish laws went out and their laws became obsolete. There were Alcaldes at San Francisco, Sacramento and other points up to the time the State was organized and they were superceded by County Courts and Justices of the Peace. When we were about to disperse Sacramento having no Prefect the delegates from there requested Genl. Riley to appoint one and I was appointed. The Prefects were a sort of petty governors of the districts. Their duties were executive and partly judicial and they had the supervision of the Town Council.\* If any questions came up under the decisions of the Council, if any conflict resulted from any of their acts, or protests were made, the matter came before the Prefect. This relation was similar to that between the Governor and the Legislature. In persuance of my appointment as Prefect, my first duty was to submit the Constituion for the action of the people in that district.\* A large population was there already 53 and they were swarming in by thousands. This was on the 15th of October and the election was to be on the 13th of November, and there was so little time to be wasted that I immediately set out from Monterey, overland, by way of San Jose and San Francisco. The[y] had sent a courier forward to have the Constitution and the Address to the People printed at the Alta Office. He was dispatched as soon as it was signed so as to have it distributed as soon as possible. When I arrived in San Francisco it was pretty nearly ready. I took my quota of the copies and went up to Sacramento I think by the old steamer McKim concerning which one old fellow remarked that she rolled terribly; and another fellow joined in and said "I know she did for she went over and when she came up I saw the mud on the top of the mast." At Sacramento, I appointed two or three Sub-Prefects to assist me in establishing the precincts and ordering the election. A. W. Winn was one of my Lieutenants. The printing of the Constitution was paid for out of the Civil Fund I have spoken of by order of the Govenor. The Prefects and appointees under them were never paid anything for their services in connection with the Constitution except what I paid them out of my own pocket. I spent seventeen hundred dollars in this business besides my own expenses and I suggested to the Legislature, one day, that there ought to be some provision

to reimburse. They laughed at me and said I was better able to stand it than the State was, and I never received any compensation for this. Every body seemed to be flush with money and I didn't care much about it. At the same time it would have been just to pay me & the others. They made rather a joke of the matter said the State revenues were nothing and consequently the State couldn't pay. I never urged it and that was the end of the matter.\* I have no doubt the Prefects of other districts were regularly paid from local sources. I appointed three Sub-Prefects. From the time I arrived at Sacramento up to the 13th of November I established fifty-two precincts north of the Cosumnes and east of the Sacramento. I was busy all the time, rode night and day. I divided up the work, sent one of my Sub-Prefects up the Sacramento another along Bear River another on to the Yuba and to all the camps up there and to meet the emigrants coming in. Everybody who arrived in the country by the day of election, who was over 21 years old was entitled to vote. I sent another man over on the Cosumnes and I took the American River myself up to Sutter's Pt. and along the river to Mormon Island and then I made a circuit of the South Fork of the American of the Middle Fork and then of the North Fork and came down to Sacramento reaching there on the day of Election. I would ride into a camp or whenever I found a collection of people to warrant the establishment of a precinct and appoint any three who might be suggested as the proper parties to hold the election and administer the oath and leave with them copies of the Constitution to examine and vote upon. I made arrangements with the precincts I established to send in their returns and I remained at Sacramento after the election until I received them and the Sub-Prefects had brought in their returns also. I returned the vote of 49 of these 52 precincts at 55 Monterey before the time of the canvassing there by the Board of Canvassers, on the 10th of December. I think the returns from the Sacramento District covered about half of the whole vote of the State.\* I paid an express courier to take these returns to Monterey. I remained at Sacramento as long as possible but the returns from three precincts I could not get. I continued the Acting Prefect of that district until the office was entirely superseded by the organization of the State Government. The returns were all sent into Monterey and the proclamation of Genl. Riley stating that the Constitution had been adopted was issued on the 20th day of December 1849 at which time he resigned his power as Governor of California to the new government.\* The Mexican Laws continued in force until after



the organization of the State Government; they were gradually superceded by the enactment of laws by the Legislature of the State and by the organization of the different courts and the appointment of the various local officers under them. At the time of the ratification of the Constitution they elected the first State Officer, and took the chances of being admitted. They absolutely established a State Government and put it in operation. Suppose that Congress had not agreed to this, had declined to admit the State, dont you believe these people would have renounced their allegiance to the United States and continued this same government which they had established. At that time California had a 56 State organization & exercised all the functions of a state. It was *de facto* a State and exercising all the powers and responsibilities of a State pretty nearly independent. The difference between California and Texas was that the former was a State applying for admission which had not forsworn its allegiance. We had not done anything for which we could be called to account. We had not organized under any Enabling Act but organized from a sense of necessity. Ordinarily the new states are organized under the Enabling Act passed by Congress under which a State forms its Constitution elects its State Officers and submits its affairs to Congress for examination and action thereon. If the State Constitution agrees with the Constitution of the U. S. and is republican in form then Congress decides whether the State shall be admitted or not. Generally the State Officers are not elected until the state has been admitted. We attached to the Constitution a schedule saying that things would continue as they are until superceded by the operation of the Constitution. This schedule was a sort of intermediate regulation between the operation of the Spanish laws and regulations and the full organization and operation of the new order of things under the New Constitution. When Gen'l Riley made his proclamation the Legislature had organized. At the election on the 13th of November we elected a full set of State Officers Governor, Lieut. Governor, Attorney Gen'l, Treasurer, Auditor &c. and members of the Legislature including four Senators from Sacramento, four from San Joaquin, and two from San Francisco, members of the House of Representatives also members of Congress. At that time I was elected to the State Senate from Sacramento District. I exercised even after that under that provision in the schedule referred to, the jurisdiction of Prefect in the Sacramento District. So I was both State Senator from Sacramento and Prefect of the District.\* That continued a few months 57 when the whole State Government was organized. Under the Statutes there was a formal abolition of the old offices. The Schedule provided

that the first Legislature should be held at San Jose as it was considered the most suitable place, being convenient of access and the geographical center of the State. The admission of the State legalized everything that had been done previously in the way of organization and legislation.

In a letter of December 4, 1849, Captain H. W. Halleck, as Secretary of State, informed Crosby that "the Prefect must decide all questions respecting the election of local Officers, subject to an appeal to the Governor; but until such appeal is made the Governor must decline to act...The Prefect also appoints & commissions all justices for the peace, submitting such appointments to the Governor for his approval." (Photograph in Huntington Library.) The following proclamation (photograph in Huntington Library) signifies, perhaps better than any other document, the easy yielding of military to civil government on democratic premises, in California: Proclamation To the People of California The Delegates of the People assembled in convention have formed a Constitution which is now presented for your ratification. The time and manner of voting on this Constitution and of holding the first General election, are clearly set forth in the Schedule; the whole subject is therefore left for your unbiased and deliberate consideration. The Prefect (or person exercising the functions of that Office) of each district will designate the places for opening the polls and give due notice of the election, in accordance with the provisions of the Constitution and Schedule. The people are now called upon to form a government for themselves, and to designate such Officers as they desire to make & execute the laws. That their choice may be wisely made, and that the Government so organized may secure the permanent welfare & happiness of the people of the new State, is the sincere and earnest wish of the present Executive, who, if the Constitution be ratified, will, with pleasure, surrender his powers to whomsoever the people may designate as his successor. Given at Monterey California this 12th day of October A D 1849 (Signed) B. Riley Bvt Brig Genl U.S.A. official & Governor of California H. W. Halleck B[reve]t Capt & Secty of State

Crosby was to urge the matter again. In a petition of November 24, 1886, he requested reimbursement from the legislature. He said that when state senator he had "accepted the statement of some of the Assemblymen as true, that I was financially better able to wait than the ability of the State *then* to pay." But in 1886 he was infirm, almost blind, and reduced in circumstances, and he prayed the legislature for payment. On March 5, 1887, the legislature appropriated \$3,842 in settlement of the claim ( *Petition of Elisha O. Crosby* [n.p., n.d.]; *The Statutes of California, 1887* [Sacramento, 1887], chap. xv, p. 14). The *Alameda Semi-Weekly Argus*, February 16, 1887, justifies Crosby's claim, but does so more with reference to the courier Crosby paid to take the returns to Monterey than with reference to paying his sub-prefects. Under the heading, "Crosby's Rider, How the Returns Were Carried to Monterey," this paper said that the State's original debt of \$1,700 had grown, with accumulated interest, to \$7,000—"a bagatelle to the Prefect of '49, but a large fortune to the Crosby of to-day." (Clipping in files of the Society of California Pioneers.)

As Crosby's district included the great northern part of the mining country, it contained a large share of the population of California. In his later manuscript, "The First State Election in California," he makes more of the importance of this than he does here. Unless 12,000 votes were cast in the ratifying election, the admission of California into the Union, with two members of Congress, would have been endangered. In his figures, his Sacramento district was decisive: 12,872 votes were cast in the state; 5,929 of them were cast in his district, 5,296 for the constitution and 633 opposed. Thus, if about 900 fewer votes had been cast in the state, or if about 15 per cent fewer had been cast in his district, California might not have been admitted as a state, and might have been organized as a territory for an indefinite period of time. So Crosby had a right to feel that his exertions and his expenditures to bring out the vote had been a matter of historical importance. ( *Quarterly of the Society of California Pioneers*, V, 75.)

The text is in Browne, *Debates*, p. xlvi.

Crosby's function as prefect, while also senator, is illustrated by his being instructed, by the governor's writ of election, to call an election to fill the place of a resigned assemblyman. (Photographs in Huntington Library, letter of Secretary of State W. Van Voorhies to Crosby, January 29, 1850, and Crosby's printed Election Notice, January 30, 1850.)

The Legislature convened at San Jose on the 15th of December 1849 in a room which had been used as a Town Hall. There were 48 members present. They were distributed round among the people of the town who very generously accomodated them. The members of course paid for the privilege they enjoyed. Upon meeting we elected a President of the Senate and a Secty *pro-tem*. There were some very fine men in the Legislature. The object of convening the Legislature so early was in order to accomplish the election of two U.S. Senators to go on to Washington with the two Congressmen who were chosen at the general election when the Constitution was adopted, to urge the admission of the State upon Congress under that Constitution. We went into convention to elect these two Senators on the 20th of December. John C. Fremont was elected on the first ballot by 29 votes. I think the election of these two Senators a matter of considerable moment. After the organization of the Legislature, I was appointed Chairman of the Senate Judiciary Committee and also as such during the First and Second Sessions. In drawing lots for our terms I drew one of the 2 yr. terms. This drawing took place at the opening of the Legislature to determine who should hold the one year terms and who the two year terms.\*

The Constitution of 1849 provided for annual elections. All the assemblymen were to be elected every year; the senators were to have a normal two-year term, and half were to be chosen at each election. This required the drawing of lots in the first session, as Crosby indicates.

As Chairman of the Judiciary Committee it developed upon me to originate and examine almost the entire Code of laws of the State. I never did work as hard as during that winter 58 of 1849-50. Among other things there came up the question of the adoption of the Common or Civil law as the rule governing the decisions of the Courts in the absence of the statutes. There was quite an element of Civil Law in the Legislature and many wanted that adopted as a rule, the old Roman Law, the Civil Law coming down under the Latin Races in contra-distinction to the English Law. Of course being from the Common Law country and in favor of it, and a great majority of the people coming to Cala. being from the Common Law States I thought it was vastly important that we should adopt the Common Law. The petitions on that Subject were referred to the Judiciary Committee, and I

made a report on the matter, the subject of Common and Civil Law.\* I prepared the basis of this report and was assisted in its filling up by Bennett, afterwards one of the Judges of the Supreme Court. That is one of the things I take some pride in. I was very much complimented on the work at that time and my law friends in New York to whom I sent a copy were so much pleased with it that they sent me out a little testimonial, a handsome seal with my family crest engraved upon it. There are many incidents and reminiscences of the Legislature that came to my mind from time to time. As a body the first Legislature was composed of very sterling men. There were some men who went there from lack of something else to do and spent there time in idleness and dissipation and drink. Old Thomas Jefferson Green was the man who gave the Legislature the name of the "Legislature of a thousand drinks." He was a man of some fortune and he had established just out of the Legislative Hall a place where he kept a supply of whiskey and every chance he 59 got he would say, "Well boys, let's go and take a thousand drinks." That was the way he extended his invitation, always to take a thousand drinks, and so the Legislature gained that cognomen, though there was very little dissipation among the members in general compared to some legislatures of later days, and the title originated from that circumstance alone. He was a Texan and one of the heroes of the Mier expedition and he published a work upon that expedition.\* There were a few roystering fellows in the Legislature more in the Assembly because the Senate was a small body and composed mostly of very circumspect gentlemen. These fellows used to cut up there pranks and were associates of Green and those hangers on and lobbyists enjoyed themselves in that way; but as a body I question whether few Legislatures ever met together with more patriotic feeling and applied themselves to the work of organizing a system of laws for their state with more zeal and industry than the first and second Legislatures of California. As a general thing they went there at personal sacrifice. There was this peculiar incident about the first Legislature: we had no revenue; we hadn't half a sheet of paper to write the first resolution on. The members said "Well who is going to furnish paper for the Secretary, Clerks &c. Mr. President we want some paper to keep the minutes; we want a journal book." He said "I have not got any." He was inclined to be a little facetious & he said "Mr. Sergeant at Arms, will you supply the Senate with the necessary stationery." That brought up the question of a fund to pay the current expenses of the session; paper, fuel and other things were required, for

which there was no money. Among the first inquiries was how to raise a temporary supply, how we could get a temporary loan. This Green was Chairman of the Finance Committee as unsuitable a man as could be, because with him everything was a frolic and went to the Legislature in a frolic, and made nonsense of everything that was done. Green introduced a bill for a temporary loan at 10 per cent per annum. 60 The absurdity of our expecting to borrow money at that rate when it was worth 5% per month that being considered the lowest bank rate was very apparent. After a few days a suggestion was made, I think by Michael Reese, as follows: He said, "If you will pass a bill to authorize the issue of Treasury Notes payable in 6 or 12 months, with interest at 5 per cent a month with small denominations, running down to \$10 and \$20 you can get some money." He said he would buy some of that denomination and perhaps the hotel-keepers would take them for board. The Treasury Notes were issued not to exceed \$300,000, and by means of this currency we obtained our needful supplies. They were called orders of the Treasurer, issued by the Treasury, payable in so long a time on audited bills that came in payment. Instead of paying the money, the Treasury would issue these notes. They were sought after and ran up to par though at first they sold for ten per cent off.

The text of this report is in the *Journal of the Senate of the State of California*, first session (San José, 1850), pp. 459-80. Other reports by Crosby, having to do with the organization of the judiciary, are to be found, *ibid.*, pp. 544-49. Crosby's pride in his report on the common law is justified. His case for adopting it is penetrated with a sense of Anglo-American historical development, and of the relationship between society and law, which has a modern and convincing ring. But of course this kind of historical legal thinking had found its leader, a quarter century earlier, in the person of Chancellor James Kent, of Crosby's native state. Namely, Thomas Jefferson Green, *Journal of the Texian Expedition against Mier* (New York, 1845).

I think it was a shameful thing to hawk the capital of the State round as was done afterwards.<sup>\*</sup> I think it should have been left at San Jose permanently as that was a beautiful and convenient place. It was taken from there at the second session of the Legislature. There were more or less corrupt influences I think at work to accomplish that. At the first Legislature I think there was not much bribery: there was a different class of men in the first from what there was in the second: I think there was some jobbing in the second Legislature. We had no revenue in the first Legislature, the state had not been admitted and there was no money to cover jobs; and after we were admitted the motive for jobbery was greater in the following Legislature. We had Field one of the Supreme

Court Judges,\* Crittenden 61 who was assassinated, and other able & good men. During that session of the Legislature when the Senators were elected, Fremont was chosen in the first ballot on account of his popularity among the old Californians and the influence that he exerted among the newly elected members of the Legislature. They wanted him elected as a sort of rebuke to the Government for having him superceded by Gov Mason. The election of the second Senator was very important. I supported Gwin for the reason that my observation of him at Monterey had convinced me that he was a man of consummate intrigue, and I knew he would get into the Senate in some way and I therefore voted for him, and I knew that if he was elected he would be a politic man for the admission of the State. He was the strongest man we could have elected for that purpose. Thos. J. Henley was another candidate for Senator. He was quite a politician in early days. He had come overland and had a great many friends who were bound to vote for him and he got a very respectable vote. There being some difficulty about the election, we went to canvass the matter of candidates and I suggested that we could not elect Mr. Henley and that the state would not be admitted unless the election of some Southern Man was secured. Thos Butler King had been sent out by the Administration and was putting in his claim for the Senatorship, though he had no interest in California. I was asked why I favored Gwin. I said he was an extreme southern man, a most persevering and persistent man and was bound to get into the Senate and he could only do it by the admission of the State and he would doubtlessly work earnestly for the admission of the State and carry a good deal of influence in that direction, and I should therefore vote for him, believing that all the other matters before the Legislature were insignificant compared to the question of admission to the Union. That was the first thing to be considered and to be worked for. I said he might perhaps draw the short term in which case he would be there only a few months and we could then send some one else. The others mainly concurred in this view and Gwin was elected by one majority. I think the 62 fact of my having been in the Constitutional Convention and knowing as much of Gwins availability as I did and urging this view upon my associates helped his election greatly. He was always friendly to me but has proved treacherous to his northern friends and always favored the south. No northern man, no friend at the north who was known to be strongly against slavery ever received anything at his hands. Every thing he did was in favor of Southern interests. I believe if we hadn't elected Gwin we would not have been admitted at that

time. I have been confirmed in that opinion by the declarations of persons who were members of Congress at that time. Gwin had the run of the California appointments and the fact that he was treacherous to his northern friends accounts for the appointment of many southern men to offices here in early times. In that connection it may be maintained that when Broderick was elected to the Senate to succeed Fremont,<sup>\*</sup> he was ignored in all matters of appointments; he was not recognized as having any influence in that matter, and it was said by those who were there in Congress that Gwin's attitude towards Broderick was overbearing and somewhat insolent, because Broderick was known to be a free soil man, and Congress was mainly southern and for this arrogance on the part of Gwin Broderick who was as brave as a lion and as honest [as] Julius Ceasar's wife ought to be, denounced him. It was pretty well understood by those who knew that Gwin had at the time we were seeking to have the state admitted, promised the southerners that if they would admit the state he would further the plan of colonizing the southern portion of California with Southern people,<sup>\*</sup> and quietly with out attracting 63 attention get a majority in the Legislature of California to pass a bill dividing the state, making the southern part of it slave. Broderick's denunciation of this scheme, I have no doubt brought on the conflict which led to his assassination. It was pretty well understood that he was to be assassinated anyway. If Terry failed, somebody else was to kill him.

As well as Sacramento, the winner in this bargaining, Benicia and Vallejo also came into the rivalry. Stephen J. Field (1816-1899), who had been an investor in land as well as an early participator in California politics, became a vigorous conservative judge in property matters first on the California Supreme Court and then on the United States District and Supreme courts. From both state and federal benches he rendered far-reaching decisions about controversial land titles, especially San Francisco titles, in California. David C. Broderick (1820-1859), entered the Senate in 1857, six years after Fremont retired, so he followed rather than succeeded him in the Senate. Born in Ireland, reared in New York, and trained in Tammany Hall, Broderick represented the northern element of the Democratic Party as plainly as Gwin represented the southern. As Crosby indicates, his death in a duel with a Gwin supporter was regarded as an assassination. The connections between the slave power of the Old South and California politics is illustrated by a romantic letter from James Gadsden, in Charleston, to General T. J. Green, in San Francisco. Under date of December 7, 1851, Gadsden said that if he were to get encouragement from the California legislature, he would lead a colony of whites and blacks, "under Military Discipline & arrangement," to some domain, perhaps in the San Joaquin Valley, which would have to be large enough "to accommodate a Community by itself: with all the appurtenances of good order & regulated society," such as "Negro Slavery, under Educated and Intelligent Masters can alone accomplish...." *Huntington Library Bulletin*, No. 8 (1935), 174-75.

## UNITED STATES COMMISSION TO SETTLE MEXICAN TITLES

LAND *Commission to Settle Private Land Claims in California*. Under the treaty between the U. S. and Mexico they use the words “The free enjoyment of liberty and property.” The treaty is very meager in that respect in not defining exactly, *in extenso* the rights of parties.<sup>\*</sup> The previous and contemporaneous acts of the government in gaining possession of a country, ought to enter into the construction to be given to a treaty. When the flag was first raised at Monterey before it was known that a state of war existed between the United States and Mexico, Com Sloat, who was in command of the naval forces and who raised the flag there and took possession of Monterey issued a proclamation to the people of California in which he invited the inhabitants of the territory to submit without resistance to the authority of the United States, and promised them protection in their persons, property 66 and religion and also high political privileges under the new government that was about to be extended over them. Among the engagements he made by this proclamation on behalf of the United States he used the words:—“All persons holding titles to real estate or in quiet possession of lands under color of right shall have those titles guaranteed to them.” This was about the 7th of July 1846. (This Proclamation is of importance and I would suggest that it be examined in full).<sup>\*</sup> The uncertainty with which titles had been held, and the informality attending the perfections of these titles, had made the people very anxious and solicitous to know if they would be confirmed, and they be able to retain their possessions, whatever they had, and I have no doubt the occupation of the country was accomplished very much by such promises and representations on the part of the U. S. Government at the time they commenced taking possession of the country. It is impossible to tell what influence these promises and engagements had in enabling the forces of the United States to complete and maintain the conquest of the territory, and it is impossible to say whether these promises did not strongly tend to lessen motives of resistance, and render the 67 conquest of the country more easy and expeditious and whether these titles, either those of a particular character or those held in possession under color of rights were not by these acts of the government very strongly guaranteed to them and especially so in reference to that portion of the population coming from other countries who had become naturalized Mexican citizens, many of them from the U



S. and who had more or less affection for the old Government, whether these people were not very strongly influenced in favor of non-resistance and were induced to join in the United States occupation by these promises to secure them the title to their lands which they held in possession. There were other promises made by other officials perhaps with not so high authority but that was the tone and sentiment of the representatives of the United States in influencing the non-resistance to the occupation.

Article IX of the Treaty of Guadalupe-Hidalgo, 1848, is the source from which Crosby quotes. The full text of Article IX follows:

“The Mexicans who, in the territory aforesaid [the territories previously belonging to Mexico, and defined by the present treaty as for the future within the limits of the United States], shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.” *Treaties and Other International Acts of the United States of America*, ed. Hunter Miller (Washington, 1927), V, 219. The text would seem to justify Crosby's comment.

Crosby's quotation is essentially but not quite literally accurate. The full paragraph on land titles in Sloat's famous proclamation is as follows: “All persons holding titles of real estate, or in quiet possession of lands under color of right, shall have their titles and rights guaranteed them. All churches and the property they contain, in possession of the clergy of California, shall continue in the same rights and possession they now enjoy.” Crosby's advice to read the whole proclamation, and his opinion that it was intended “to lessen motives of resistance” to American arms, are both well taken. In Commodore Sloat's own words: “I declare to the inhabitants of California, that, although in arms with a powerful force, I do not come among them as an enemy to California, but, on the contrary, I come as their best friend, as henceforward, California will be a portion of the United States, and its peaceable inhabitants will enjoy the same rights and privileges as the citizens of any other portion of that nation.... They will also enjoy a permanent Government, under which life, property, and the Constitutional rights, and lawful security to worship the Creator in a way most congenial to each one's sense of duty, will be secure.... I invite the Judges, Alcaldes, and other civil officers, to retain their offices, and to execute their functions as heretofore, that the public tranquility may not be disturbed, at least, until the government of the territory can be more definitely arranged.” Proclamation issued July 7, 1846, in Edwin A. Sherman, *The Life of the Late Rear-Admiral John Drake Sloat* (Oakland, California, 1902) pp. 75-76.

The results of the law creating the Land Commission have been most unjust to the claimants and ruinous to the best interests of the State. Whatever the motive or intention of Congress in passing the law creating the Commission might have been, the effect has been unjust and disastrous in almost every respect. At the time of the sitting of the Convention in Monterey and at the time of the assembling of the members of the first Legislature, before the U S. Senators were elected and before the State was admitted the matter of the settlement of these private land claims was somewhat discussed by those who foresaw what influence it might have in the prosperity of the State. I suggested to Mr. Gwin before his election in December '49 a plan substantially like this: that as soon as California was admitted as a State, Congress should be requested to pass a law creating a Commission of Registration at as early a day as possible which should sit in one or more central parts of the State for instance San Francisco and Los Angeles which would give them a chance in the north and south also, to receive from claimants to lands under Spanish or Mexican grants or permits for occupation such written evidence of title and right of possession as they might have received and chose to present, together with such oral testimony in support of their claims, either of perfected titles or inchoate titles, or rights of possession as they could furnish all of which should be made matter of registration by that Commission, and as fast as they concluded any one case all the evidence as to the extent and boundary of the lands claimed should be furnished to the Surveyor General of the State and at the expense of the United States he should make a survey and segregation of those lands from the public domain. Where conflicts as to boundary existed between different claimants, if they could not adjust them themselves by mutual compromise, boundaries should be fixed and the differences settled by arbitrators, one to be appointed by each of the claimants, and the third by the Board of Registration that decision to be final as to the matter of boundaries and the land so defined and segregated should be awarded to the claimants and patented by the United States subject only to be contested by any person on the ground of fraud and the suit contesting any of such claims on the ground of fraud should be commenced in the United States District Court, by the issuance of process, and proceeding as in any other case, this right of contest should only continue one year after the promulgation of the confirmation by the Board of Registration. Other details, more *in extenso*, of course were discussed but that was the broad outline of the proposition. If that course had been adopted on the admission of the State, within two or three

years the whole question of land titles in Cal. would have been fully settled and disposed of.\* It would have mattered very little in whom the title of these lands was vested at that time, because the lands were generally regarded as of little value and most of the claimants were anxious to have their titles so perfected for the very purpose of making sales. Vast quantities of those lands were offered at far below the Government price of \$1.25 per acre. 25 and 50 cts per acre was the price at which very many of these large tracts were offered, and the claimants would have been very glad to have sold those surplus lands which they could not themselves use in which case they would have gone into the hands of emigrants and the people who were anxious to possess lands and cultivate them and at those prices they would have aggregated no more, or very little more, than Government price. I can instance many cases where I prosecuted the Land Commissioners and the U. S. District Court and the Supreme Court where the claimants at the time of commencing their proceedings and instituting their claims before the Land Commission, would have been glad to make sales of the great body of their lands at those merely nominal prices I have mentioned. But they could not sell their lands because the titles were not confirmed, were in dispute & litigation and no-body would have anything to do with them. Many of them supposed that those claims, under the rigorous application of the equity powers conferred upon the Commissioners and the U S Courts would be set aside and the lands become Government Lands, and they could then take them by virtue of pre-emption. They thought that would be their safer course to get titles and that they had best wait until confirmation and adjudication of these titles had been made and so they deferred buying. And a great many thought if they did buy of these claimants they would have to buy again of the United States, and altogether it created a condition of uncertainty that prevented the occupation and settlement of lands by the new comers for the first 8 or 10 or 12 years. Had these titles been confirmed they would have been occupied as rapidly as the incoming population could absorb them at low prices and all those vast domains would have been cut up & divided and settled long and long ago. The result of this mode of settling titles, and this continued litigation, has forced many of the land owners to retain their lands against their own inclination until their titles should be perfected and struggle as best they could to keep their property until the final confirmation, and the growth of the state and the necessities of the country have made them enormously valuable after this long lapse of time, and now they find themselves possessed of large domains and of incomes

derived from them that enable them to keep them. That has really been the practical working and effect of settling land titles, and now after the lapse of a quarter of a century there are many of those titles still in litigation. In the first place it was bad faith on the part of our government to subject claimants to this enormously expensive and dilatory mode of settling their titles. The mode of settlement was a long Chancery proceeding imposed by the government upon every person claiming lands, dragging him first through the Land Commission and then by operation of law all confirmations stand appealed to the U. S. District Court, and then to the U. S. Supreme Court, a process that in the majority of cases bankrupted the original claimants and invited speculators and sharpers to take up their cases and buy out their claims for nominal prices, because of their bankruptcy and prosecute them through this long series of litigation; & consequently a great many of these lands that are now held in large tracts are not held by the original claimants and the parties who ought to have had them in good faith and justice, and the land on account of this bankruptcy and inability to carry on this process of litigation, passed into the hands of speculators and both the native Californians and foreigners who had become naturalized had become despoiled of what rightfully belonged to them; I think the political influence, by pampering to the squatter vote, as it was called, had more or less to do with the enacting of the law creating this Land Commission and the continuance of the cases by appeals through the different courts. I will say this in justice to the first Land Commission appointed under that law; they evinced a disposition to administer it upon a broad and liberal basis of equity and justice to the claimants, and if the United States had stopped there and considered as 71 confirmed and patented those claims which had been confirmed by that first commission, a vast amount of injustice would have been avoided, as well as a great amount of delay and embarrassment in the settlement and progress of the State. Many of the claimants whose titles and rights were confirmed by the Land Commission were pretty well exhausted by the expense of that litigation, besides the injuries they sustained from the inroads of the ruthless and lawless squatter population that had taken possession of their lands and were permitted to hold such possession until the final confirmation by the highest tribunal of the land was reached; and it was a matter of enormous expense and almost needless delay beggaring and ruining them in many cases. The District Court in its decision of the first cases on appeal from the Land Commissioners, was actuated more or less by a liberal spirit but not so much so as the Land Commission. After a time

these cases began to appear in the U. S. Supreme Court, the equitable considerations and promises made by the officers of the Government of the U. S. who first took possession of the country having been totally or to a great extent disregarded. The Supreme Court decisions began to overturn the confirmations, and herein the greatest injustice was done to the people who, after their claims had gone through two adjudications and been confirmed found these confirmations, which they thought had secured them in the possession of their lands upset by the Supreme Court decisions. In God's name, what sense or right was there on the part of the Government of the U. S. in putting these claimants to the enormous expense of carrying the litigation of their claims to Washington? There was not one in fifty of these claimants who could stand any such expense and the result has been the transfer of these claims to speculators and men of wealth, who took them up for little or nothing and have been fighting them out for what they could get. Thus the most outrageous wrongs were perpetrated on the old California Claimants. This is my opinion of the matter from my experience with it. I have had a large number of these claims in my hands before the different courts. For a great government 72 like this of the U. S. which provided the arbitrators or commissioners to pass upon the validity of these titles, and in whose appointment the claimants had no word or voice to take this oppressive course was altogether unworthy of it and a great injustice to a portion of its people. It ought to have rested with the decision of these arbitrators of its own creation without going any farther. In every decision against the U. S. in the District Court the case stood appealed by operation of law, by the simple giving of a notice which was filed with the Clerk of the District Court and signed by the Atty Genl. and in that way the case was carried to the Supreme Court of the U. S. From my experience and observation of these cases extending over a number of years, I am of the opinion that the squatter interest was catered to & fostered by the politicians, and squatting encouraged by them upon these claims for the purpose of political influence and power, and an endeavor was made to create a public sentiment antagonistic to these original claimants, and as the population increased and the squatter vote became in the ascendant, that squatter influence became more powerful, and was felt more or less in the decision of cases. I saw at the beginning of this year 1878 a decision of the Supreme Court announced, dismissing upon technical grounds an appeal of one of the old claimants to a valuable tract of land held under Mexican grant in California, a claim which should in honor and justice have been confirmed long ago, but by this decision of

the Supreme Court, there was virtually a confiscation of what should have been otherwise the just patrimony of the surviving remnants of the claimants family, who have been in consequence left in a state of destitution and beggary. With all the litigation connected with these claims the number of fraudulent claims developed has been very limited, with the exception of four or five prominent ones, they sink into insignificance in comparison with the injury that has been inflicted upon the great mass of the claimants by this long and expensive contest into which they were forced by the action of the U. S. against them. I was engaged in prosecuting these claims exclusively from 73 the time of the organization of the Land Commission up to 1860, I had something over a hundred out of the 812 claims filed, in my hands and for seven or eight years was engaged in taking testimony and translating papers connected with those cases, and hence from that experience I had a pretty correct idea of the practical character of this matter and have no hesitation in saying that the course of legislation on the part of the United States and the litigation that they have forced upon the original claimants was a very great injustice on the part of our government, and this I believe to be the opinion of those who had much experience in this matter and were well acquainted with the land claims in California, considering the circumstances under which the claimants held their possessions as well as the equitable and liberal promises made to them by Com. Sloat, when he first raised the American Flag, and other inducements held out by those in authority on behalf of the U. S. to induce them to acquiesce in the change of government from that of Mexico to our own.\*

The question of California land titles, and of American policy towards them, is one of the most central and difficult matters in the history of the state. Not only national policy, focussing in the Act of Congress of 1851 and the Land Commission set up under the act, which are the matters which Crosby discusses, but also state policy and local interests became important. Land titles and policy were debated from every angle, from the time of the reports of Captain Halleck and William Carey Jones, in 1850, on through three decades of litigation and public controversy. For the best modern introduction to the question, see Robert G. Cleland, *The Cattle on a Thousand Hills* (San Marino, 1941), especially chaps. i-iii, vi.

Judgement about American land policy in California is still somewhat a matter of controversy, but Professor Cleland's findings and conclusions largely conform with Crosby's strong opinion, and so do those of many other writers, both contemporary with the event and more recent. Cleland, *Cattle on a Thousand Hills*, pp. 70-71 *et passim*.

## GUATEMALA IN CIVIL WAR DIPLOMACY

IN 1860 I returned to New York, arriving there on the eve of the Presidential election. As I had been absent nearly 12 years from the Eastern states the excitement and talk of secession on the part of the Southern States, were all new to me, & filled me with surprise and astonishment. For the purpose of satisfying myself whether there was really any serious intention of this kind, I went down to Richmond, Virginia and from there to Charleston, S.C. and Savannah, Ga. In all these places I found the excitement intense, far beyond the representations made in the north. On my return to Charleston and while in that city the news came of the election of Mr. Lincoln to the Presidency. The whole population seemed wild with enthusiasm over the announcement and many of the leading men declared their satisfaction at the result as it would give an excuse for the immediate secession of that State, and other Southern States. In fact impromptu meetings were called to take immediate steps for the secession of the State from the Union, the bells were rung and bonfires kindled, & the wildest delirium seemed to possess them. Some of my intimate friends there whom I had known in California, in the privacy of their homes, where I was admitted, asked my opinion of what would be the result. I told them I could hardly predict what it would be, but if they provoked a collision by act of secession, and the military power of the north were brought to bear upon them, I believed they would be crushed to the earth. Such sentiments although honest on my part, and given to personal friends, I saw were not 76 consonant with their feelings. Two days after I took the steamer for New York passing Ft. Moultrie and that same steamer was detained by the authorities on its return to Charleston. I was in Washington during that winter of '60-'61, and heard all the debates pending the secession of the Southern States, saw some of the distinguished rebels withdraw from the Senate and House and was in Washington when Mr Lincoln arrived there. I remained until after the inauguration and in making up his foreign appointments he tendered me the position of United States Minister Resident at Guatemala. I was confirmed and commissioned on the 15th of March 1861<sup>\*</sup> and requested to prepare for immediate departure for that country. According to State Department record, in the National Archives, Crosby was commissioned on March 22, 1861. In the middle of April I sailed from New York for Guatamala by the way of the isthmus of Panama. The Panama Railroad Co had a line of steamers running from Panama to the ports of Central America, touching at Realejo and two ports in Salvador and the port of San Jose in Guatemala. I

had a Secretary of Legation with me and as the Government did not allow me one I employed him privately, and paid him from my own funds. Mr. Saml. J. Hilton, a native of Washington, acted in that capacity. He was a fellow six feet in his stockings, well developed, and withal quite jolly in his way, though not of classic education, but of eminent good sense, and when dressed up was quite martial in his appearance. He had never been outside of Sandy Hook and everything was new to him. I found him an invaluable attache, because he was not seasick and was most ready to administer my favorite remedy for seasickness, champagne cocktails made with a very little Stoughton bitters and a few drops of good brandy or any other liquor that is palatable, and perhaps a little sugar. We had a very pleasant run from New York to Aspinwall. As Hilton had never been in the tropics, and we left New York when the winter was hardly passed, in the month of April, cold and chilling, the first sight of those glowing tropical shores delighted him and the contrast was so great and the scene so enchanting, he made many exclamations at the beauty and was very much enraptured with the appearance of everything he saw and said it must be a paradise and the people who inhabited such a country must be very attractive and prepossessing in their appearance, and all that. But as the vessel began to near the wharf, he saw it was lined from one end to the other with natives, pretty much in a state of nature, with very little clothing. "Well" he exclaimed "if those are the angels who inhabit these shores they make their appearance in very short robes." The romance departed somewhat but he was wild and enthusiastic over tropical scenes, and the display of fruits, and as soon as we got to Panama he was pretty much done up with cramps and belly ache. The romance departed still farther then and it was my turn to play physician. He had a handkerchief full of bananas, oranges &c. and I saw what the difficulty was. I said "What have you got there Hilton?" "A little fruit" said he. I said "Hand it along," and I took it and tossed it out of the car window. When we were at Aspinwall I met Col. Totten the Engineer of the Panama Railroad, who was a passenger on the steamer from New York and he said he was fearful I should lose my passage on the steamer just about to leave Panama for the Central American Ports, and said he would telegraph across to Mr Nelson, the agent at Panama to detain the steamer until I arrived. That was an honor that had never fallen to my lot, to have an ocean steamer detained for my accomodation and I began to experience for the first time the sensations incident to high political position. Through his



kindness I was enabled to take passage immediately, and I could not have gone otherwise, without waiting at Panama two weeks for the next steamer.

When we reached San Jose, Guatamala, it was just the commencement of the rainy season. It begins there in the Spring and lasts through the summer, the reverse of the rainy season in California, with the addition of tremendous thunder and lightning. The city of Guatamala lies 90 miles inland and we had to reach it by diligence, a sort of Belgian vehicle, pretty well adapted to the purpose of conveying a large load very comfortably: but it was drawn by Spanish horses, much like the early stock of horses they used to have in this country. The service was farmed out by the Government to a Belgian who had four or five hundred head of horses and did all the mail service of the country. That was the only carriage road that was used for mail carriage in the Republic from San Jose to the Capital. After getting our things aboard we started across the coast plain running back from the ocean to the foot of the Sierra Cordilleras with five horses attached. They put three abreast at the two shafts, one between and one each side, and two in front, and a band of horses was driven along in company to be used for relays. That coast plain is nothing more nor less than the washings from the mountains, a soft loam and when the rain comes of course it is terrible muddy. After we had gone a little distance we fell into one of the mud sloughs that prevailed along the road and could not get out. Thereupon they drove up the band of horses, and caught three or four of them with the lasso and wound their tails with hay doubled over the hair, and tied a *riata*, a hide rope, into the tail and then hitched their end to the shafts of the carriage. Three or four horses were attached in this way in addition to the five we had before. Then the drivers gave a yell, and the horses all started together, away they went, the mud flew and the carriage came out of the hole, and went some distance before we could stop. It is wonderful the power exerted by the animals in this way. Hilton was so interested and enthusiastic that he had to give a yell also and remarked "I have heard of the tail hold before but this is the first time I have witnessed its practical utility. I think it a pretty good thing." The whole proceeding was very comical. Going over that 40 miles of the coast plain after the rainy season had set in, the road which was cut through the dense forest which covered the plain was so soft that it was impossible to proceed. We finally arrived at Escuintla, which is situated at the base of the range of mountains that passes down through Mexico and

Central America and rising into the Andes of South America, the great back bone of the continent. In some places it rises to immense height. There are two very prominent points in the range, with striking features, the Volcano De Agua and the Volcano Fuego. The former rises in a very perfect cone to the height of over 14000 feet the base commencing at this town of Escuintla. The other is a little further north and the valley between these two is where Alvarado lived—the Lieutenant of the Cortez who led the first expeditions that conquered the Central American States. He located in that valley and founded the old city of Guatamala. These two Volcanos are land marks for a long distance at sea and the scenery is wonderfully grand and imposing. The Volcano De Agua derives its name from the circumstance that during one of the heavy rainy seasons which prevail in that country the crater became filled with water, and one side burst out and let the immense flood down the side of the mountain, and it swept over this little town which Alvarado had founded not long before in 1524 carrying trees and rocks with it and creating great havoc. Among the victims of the disaster was the wife of Alvarado who was killed. The volcano Fuego derives its name from the fact that it has always been a living volcano of fire. After the disaster by water, Alvarado removed the site of the city nearer to the center of the valley between the two volcanoes and there was founded and grew up one of the finest Spanish American cities on the Continent, next, probably to the City of Mexico in its day. When we arrived at Escuintla, we found a large Indian Town, with a very poorly kept hotel kept by a Frenchman where we spent the night not sleeping much on account of the fleas. In the morning we heard a tremendous outcry in the Courtyard and my Secretary who was on the qui vive for all kinds of adventure and excitement rushed out and commenced laughing immoderately, and I went out and saw a couple of little animals about the size of a four or five months pig called coche de monte or mountain hog an animal of the hog species and when domesticated very mischievous. They had got hold of some of the Vacquero's baggage which was left in the corridor and were dragging the clothes round through the mud and tearing them to pieces and half a 80 dozen fellows were chasing them with sticks trying to recover the garments. They kept at this chase quite a while but the pigs got away from them after all. We got our breakfast of tortillas and frejoles, also fried eggs and coffee and the diligence started again to ascend the side of the mountain towards the capital 50 miles distant. The ascent of the mountain is quite precipitous by a zigzag road winding about until it reaches an

elevation of about 5000 ft and then it gradually branches off into a great upland plain called the valley of Los Vacas in the center of which is located the present city of Guatemala founded in a year that is memorable in our own history 1776. It is a fine Spanish city. At the time I was there the population was estimated at about 60,000 but extending over a much larger area of ground than a city of the same population in our own country. The houses are built of brick and stone with immense walls averaging, according to the general regulation four feet and two inches in thickness, one story high and built after the old Spanish style of architecture, resembling a fortress outside covering a large space of ground with two to five court-yards inside according to the wealth and dignity of the family that owns the place. These residences are known by the names of old families descended from the conquerors, and the Spanish emigrants who came to the country afterwards and established themselves there. The interiors of these houses are very beautiful and attractive, while the exteriors are not very prepossessing, the windows being all covered with iron gratings. The inside is generally elaborately carved and finished and ornamented and the court-yards are very handsomely decorated and beautified with vegetation, fragrant flowers and shrubs, and all of them supplied with water, some having very handsome fountains. They are well paved and very clean. The only entrance to the houses is through the great street portal secured by two immense folding doors in one of which is an ordinary door for the entrance of persons; carriages are always driven in through these portals to the first court-yard. The house I occupied for the American Legation had a frontage of some 80 feet on the street and 81 extended back two or three hundred feet, with large suits of rooms and with corridors fronting on the Court-yards, a passage leading through into the rear. On one side was stable accommodation for eight horses, had everything very complete in their appointments; they were convenient and well adapted to the climate. The purpose in building them so strong was to guard against the frequent earthquakes. We experienced episodes of that kind several times while we were there; one was so violent that it shook off the tiling from the roof. The ceilings are generally constructed of wood panelling, some very elaborately carved; decorated plastering or any mason work would be very liable to be shaken down at any time and is never used. The Grand Plaza is a very spacious opening in the center of the city. On one side is the great Cathedral Church a very large handsome and imposing structure built of stone and brick, with immense columns dividing the five naves, and the roof vaulted or arched with the same material,

the structure intended to last for centuries and it will I have no doubt if it is not shaken down by an earthquake. Adjoining this on the same side is the Archbishops Palace, an immense structure, where the Archbishop and his retinue live in royal state. On the opposite side fronting the two buildings, is what was originally the Vice Royal Palace the residence of the Viceroy of Spain who governed the Kingdom of Guatamala during the Spanish reign and before its independence composed of the five Central American States, Guatamala, Honduras, San Salvador, Nicaragua and Costa Rica. On the other side of the Grand Plaza is the Palace of the Municipality of the City and on the opposite side to that is a range of buildings belonging to the famous Marquis of Aycinena, one of the Spanish Grantees who emigrated and located in Gautemala. After the independence the marquiset became extinct, although by courtesy he is called the Marquis of Aycinena still at the present time. I must mention the two fine aqueducts that supply the city with water, one coming from the mountain on the east side of the valley a distance of some 12 miles and the other from the mountain on the west side a distance of some 82 9 miles, both discharging their waters into the general reservoir, from which it is distributed through the city affording a great abundance of fine water from the mountain streams. The pipes are laid into all the houses, and the cisterns and fountains are constantly filled and flowing. There are quite a number of the old Spanish families who had been jealous of their blood and who have generally managed to direct the affairs of the government who reside in the city of Guatemala. But the large proportion of the population is that of the Ladino, the mixed Spanish and Indian races, and the pure Indian race. There are not so many of the Indian as of the mixed race. These latter do the housebuilding, mason's and carpenter's work, make furniture work in metals &c. Silver dishes and utensils are very common there. It is no unusual thing to see an Indian woman with a large silver pitcher on her head in the street, going for milk or other articles to the stores. The Indians that are resident there do the manual work. They carry brick and mortar for masons, and tend on other mechanics, and do other outside-work, and they are employed also to do the more ordinary service in the houses, under the direction of the mixed class. The pure Spaniard devotes himself to affairs of government, learns professions and occupations kindred.

I was very well received by the President, whom I had known on a former visit to the country, and who paid me an informal call on the evening after my arrival.\* A couple of days after I arrived, I

asked for the appointment of a time to present my credentials, and three days after that presented my letter of credence to the President who received me in citizens dress, in deference to our American republican habits, instead of military costume as was his habit generally, when receiving the 83 representatives of Great Britain, France, and other monarchical countries. The reception was held in the room formerly used as a throne room by the Viceroy, before the independence of the country, a very lofty and spacious hall, decorated and furnished much in the same style as when occupied by the Viceroy. The President's Ministers of State were some of them in military dress with a large staff of generals and military officers, in very glittering uniform, and quite a display of troops of the line drawn up in front of the Palace and along the entrance to the audience room. After the presentation of my credentials, and a few moments spent in informal conversation with the President and some of his ministers whom I had known before, I took leave, and was driven directly to the Palace of the Archbishop where I paid my respects to the Head of the Church in that country. I deemed it a matter of considerable importance to pay that attention and respect to the Archbishop because in that Catholic Country the power of the church is almost coextensive with that of the civil and military administration. The Church has the right of representation in the Legislative body and nominates a certain number of the delegates to the Congress of the Country. To lose sight of that influence and good will a foreign representative would lose at least half of his influence in the country; and while I had no letter of credence to the Archbishop, yet it was not only policy but a duty to pay respect to this influence & during my stay there I afterwards found it was a very wise act on my part to pay him the attention of the first call after I had presented my letter of credence to the President. I learned afterwards that he had been notified that I would be presented; whether he knew of my intention to call on him I don't know but he evidently was prepared to receive me in grand state, for he was attired in his church robes and surrounded by the Bishop of Guatemala and several other bishops and church dignitaries, and received me with all the formality and attention that I could have expected had I been accredited to him. He was always very friendly to me after that, during my stay there, and very often called on me in a social way: 84 but he was always particular to pay formal visits in state on special occasions, for instance the Fourth of July, the anniversary of our Independence, which I kept by giving a diplomatic dinner, and a grand ball in the evening, inviting all the leading people of the Capital to be present. While he would not accept

our invitation to our diplomatic dinner he made it a point to call in a formal manner accompanied generally by quite a retinue.

According to State Department record, Crosby "arrived at his post" on May 12, 1861. His remark about having known President Carrera earlier is puzzling. Possibly he refers to a visit made en route to or from Washington for land-title litigation. But he mentions no such trip in that context; and he almost denies having made such a one, above, where he says of his return to New York in 1860, that he "had been absent nearly 12 years from the Eastern states."

I found Don Rafael Carrera at the head of the government.\* He was then President for life having been elected under a provision of the amended Constitution. Carrera was a very extraordinary man, by birth a pure native Indian and in his younger 85 days brought small articles of product to the market for sale, in his Indian costume consisting of a pair of unbleached muslin pants a blouse shirt of the same material, a coarse Panama hat and raw-hide sandals. That is the common dress of the native Indians of the Country. At the time of one of the Revolutions he distinguished himself as the leader of an immense herd of Indians, who congregated in the interest of the church party, and as the leader of that Indian population, over whom he seemed to have unlimited control, he finally took possession of the capital and the whole country and was installed President of the Republic, and from that time on held that position until he was elected President for life; and it was during his administration that I was accredited there. Of late years since the Spanish rule has been broken there and the country became independent, there has been no Spanish emigration there, and the ruling classes are the descendents of the Spanish conquerors and the Spanish emigration that followed. The mixed population is the outgrowth of the Spanish and pure Indian. The Spanish or white population as it is called was estimated at about 75 or 80 thousand when I was there. The Ladino or mixed population at about 350 thousand, and the Indian population proper was variously estimated from 700 to 900 thousand. I suppose the population fairly estimated was probably from one million to twelve hundred thousand for the whole of Guatamala. The Spanish governing class, seeing the preponderating influence of Carrera, & to save their own positions adopted him themselves: & being more intelligent and accustomed to the peculiarities of the mixed and Indian population, they, by adopting him, virtually retained their position in directing more or less the affairs of the government. Of course concessions were made to the Church party, who had been instrumental in elevating Carrera, by a compromise. Devoid as he was of education, he seemed to possess an

instinctive perception of men and things to an extraordinary degree, and seldom made mistakes in selecting his advisers, or those connected with his government, upon whom he had to rely for support. I was very particularly 86 impressed with his faculty of discernment in connection with the war of the Rebellion in the United States;<sup>\*</sup> but Carrera, on the other hand was a decided friend to the U. S. Government and so were most of his advisers, and at my request he issued orders prohibiting any supplies whatever to be furnished to the rebel cruisers that were frequenting the ports of Guatemala on the Bay of Honduras, especially the port of Livingston on the Rio Dulce. They did seek supplies there on two or three occasions but whatever power he had to resist them he exercised, & his orders to the people and authorities were not to furnish any supplies to the rebel cruisers and this broke up any further attempts in that direction. In olden times that part of the Bay of Honduras was a great resort for pirates. The passages among the caves were so numerous that it was almost impossible to follow, or overtake them. The Rio Dulce has deep water navigation all the way up to Lake Isabel, in the Department of Vera Paz, and if the Rebel Cruisers had been permitted to avail themselves of that advantage, they would have found a very safe retreat in case of being pursued by any of the war vessels of the United States.

Crosby's comment on Carrera here, and his discussion below of the anatomy of the dictatorship in Guatemala, invites comparison with the reports and opinions of earlier American diplomats in Central America. John L. Stephens, whom President Van Buren commissioned for some indefinite official purpose, went to Central America in 1839 primarily, it seems, to observe the country, study its archeology, and gather material for a book. In his *Incidents of Travel in Central America, Chiapas, and Yucatan* (2 vols., New York, 1841 and many later editions), Stephens wrote as one favorable in principle to the liberal, federative, but short-lived Central American Republic, of which General Morazan was the hero; and as one opposed to the aristocratic, particularist, and clerical elements associated with Carrera. He interviewed both Morazan and Carrera, who was then only in his twenties, and he made very judicious and cautious comment on the Indian leader. He hated the bloodshed of which Carrera was guilty, but he did appreciate that this was the first of the Central American revolutions in which the Indians were a dominant influence, and that "retributive justice" was on the side of the Indians. He spoke approvingly of Carrera's reducing the capitation tax, and he formed the opinion that if Carrera "could curb his passions, he would do more good for Central America than any other man in it." See *Incidents of Travel in Central America* (1846 edition), I, 232-50; II, 135-39. On the other hand, Ephraim G. Squier, the New York Whig, journalist, reformer, and archeologist, who was sent as chargé d'affaires from the United States to the republics of Central America in 1849, represented Carrera in unrelieved black. In his *Travels in Central America* (2 vols., New York, 1853), II, 428-29, he compared Morazan with Carrera as good with evil. Morazan he described as "the savior for the time, of Republican institutions," and as always respectful of constitutional balances and civil rights. Carrera seemed to him sometimes the master but more often the tool of selfish aristocratic, clerical, and anti-republican interests, and the very "impersonation" of "retrogradation and tyranny, and the blind leader of fanatic and tumultuous hordes animated by hate and lust, and eager for pillage, revenge, and murder." For Squier's

extended historical comment, see *ibid.*, II, 429-49. He took the same line in a later book, *The States of Central America* (New York, 1858), pp. 514-18.

The Bancroft Library's "Events in California" ends this sentence here, and includes the following additional material. "He could neither read nor speak English, and could write very little Spanish. He was therefore dependent upon his Secretaries and those immediately connected with his person for information and made them read for him. When I first went there it was at the commencement of the Rebellion, and I took all the illustrated papers printed in the United States, as well as the Illustrated London News. I commenced sending those papers to him, for his edification and gratification, and he soon fell into the habit of relying not only on the American pictorial papers, but he ordered all the illustrated papers of England, France, and Germany to be furnished, and those pictorial representations of the events that transpired during the Rebellion became quite a constant study, and from them, together with such other means of information as an illiterate man could obtain, he possessed an extraordinarily accurate idea of events as they were transpiring. It was singular how well informed he seemed to be of the events recorded and illustrated in these papers. As I was able to converse with him in Spanish, he very frequently either invited me to his house, or called at the U. S. Legation in an informal way and entered into familiar conversation on the passing events concerned with the rebellion in the United States. Some of his advisers were disposed to take sides with the movement of the French in Mexico, and manifested some unfriendly feeling towards the Government of the United States." At this point the Bancroft Library manuscript continues exactly the same as the present text.

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When my appointment to that mission was under consideration, before and at the time of the inauguration of Lincoln in 1861 the plan had been conceived by old Francis P. Blair, Benj. Wade, Charles Sumner, Preston King, U.S. Senator from New York, Mr Seward\* & some others to effect an arrangement if possible, with the governments of Central America for the colonization of the free blacks of the Southern States and thereby to inaugurate an easy outlet for them to some neighboring country, convenient to the ports of the Southern States, for their establishment under a free government, similar to the colony of Liberia, and where they could be more or less under the protection of the U. S. Government. It was thought, by such an arrangement, if it could be effected, that a very large surplus of the black population of the South could be disposed of and that many Southern men were disposed to relinquish their slaves, either voluntarily or for such moderate compensation as the Government or individuals might be disposed to make them, in furtherance of this plan, and that the slave population would be so much reduced by this movement that a compromise might be effected by which the rebellion then impending would be either averted or greatly modified. It was one of the schemes [by] which the incoming administration had a view to prevent, if possible, the disasters that followed the consummation of the Rebellion. The carrying out of this plan was one of the secret instructions given to me by the President at the time I waited



88 upon him for his direction before sailing for Guatamala. I thought then and I think now that the destiny of the negro in the south would be either annihilation or emmigration to some part of tropical America, that they never can remain a distinctive race in the United States,\* and I entered into that scheme, therefore, with great interest and enthusiasm; for I am satisfied that if some of the vast tracts of country in Central America that are now comparatively lying waste, could have been secured for the colonization of the negroes who voluntarily wished to emigrate there, under the patronage and protection of the United States Government they would in a very short time develop themselves and their new country more rapidly than they can 89 in any other way. Very soon after my arrival in Guatemala I commenced sounding President Carrera and such of his advisers as I thought proper to approach on the subject and also some of the leading men in the State of Honduras particularly Señor Alvarado, who was an influential man in that Government at that time; but I found them without exception eminently hostile to any such emigration to their country and colonization there. I represented to them this:—that a district of country bordering on the Bay of Honduras, in the Department of Vera Paz, that was very sparsely inhabited by aboriginal Indians, and a great deal of it wholly vacant, thousands of square miles in extent could be assigned for such colonization, the new colonists to become citizens of the Republic after such time as they might think proper, the same as foreigners were made citizens of the U. S. and that by this arrangement, they would be increasing the population and the wealth, and strength and commerce of their country and adding to its prosperity. They could make their own regulations in regard to the colonists, the same as they had made regulations for the colonization of Belgians a colony of whom had once been admitted to the country in that very vicinity but which had failed on account of the difference in climate between the home of the Belgians and their new home in the tropics. A great many of them died off and the others only escaped by dispersing to the interior on the highlands where the temperature was modified by the elevation. The City of Guatemala is 4500 ft above the level of the sea, and the temperature is exceedingly delightful, the thermometer ranging between 50 and 80; and has not varied from that as appears from the register in the College, for the last hundred years. The Belgians when they sought those salubrious regions of course recovered themselves. It was thought by Mr. Blair and others that the negroes who might migrate from the U. S. going from the Southern States climate to those points in Central America, the transition of climate would be very

slight and the climatic influence on them would amount to nothing. At first some of the officials of the country seemed to entertain the proposition with 90 favor; but Carrera from the very first and Guardiola, then President of Honduras, and most of their immediate advisers, opposed it *in toto*.<sup>\*</sup> There argument was, that a very considerable number of English speaking negroes thus introduced could not be assimilated with their already mixed population and the number that would be likely to come would very soon create a balance of power in their hands as against the remainder of the population of the whole state and that for reasons of personal safety and the perpetuation of their own government in their own way under the Spanish forms and customs,—this plan would not work; these new colonists would gradually introduce a new order of things that would eventually lead to an open rupture between them and the native races. They put the question to me “If the U. S. want to colonize the free blacks on territory by themselves, why dont they appropriate some of their own sparsely populated territory to this purpose and keep them themselves?”—A question which I must confess I found very difficult to answer. That scheme met with such prompt and general opposition and the events of the Rebellion transpired 91 with such rapidity that the project for the colonizing the free blacks was abandoned. If it could have been consummated, I have no doubt it would have been one of the ways in which a compromise could have been made by the Government of the U.S. with the slave holders of the south to have so far reduced the slave population by process of emancipation & purchase or compensation that a more peaceful method of solution of the difficulty would have been arrived at.<sup>\*</sup> I am inclined to think now in the cause of humanity & progress for the blacks if the Government of the U. S. had availed itself of the offer that was made to annex St. Domingo to this country, and open up that country to the colonization of free blacks, it would have been one of the wisest and most salutary measures that could have been adopted by our Government for the amelioration of the condition of the blacks. We have no territory capable of producing successfully the universally used commodity of coffee, neither have we any tropical possession where thousands of the people of the U. S. can resort and be under their own flag & government, for sanitary purposes. Many other tropical productions that are largely consumed in the U. S. have to be procured from other nations and I think it was a very short sighted policy on the part of our government not securing that splendid possession when it was offered to President Grant

for a mere nominal consideration.\* There are half a million people in the U. S. who ought to reside in the tropics for sanitary reasons and no more delightful country exists on the face of the earth than that Dominican part of the island.

The five men to whom Crosby attributes the conception of his mission in behalf of a colonizing project represent all the important variations of antislavery politics and thought. In descending order of moral leadership, Senator Sumner, the chairman of the Senate Foreign Relations Committee, Secretary of State Seward, and Senator Wade, respectively from Massachusetts, New York, and Ohio, represent the northern anti-slavery impulse as it fed into the Republican Party. Blair and King had both been strong Jacksonian Democrats; Blair was of Virginia and Kentucky origin, and King from New York. Both supported Van Buren in the Free Soil movement of 1848, and Lincoln in 1860. Sumner and Wade of course became leaders of Radical Republicanism, extreme in Negro equalitarianism as well as otherwise. Blair was to return to the Democratic Party, in reaction against the Radicals; and Seward, in continuing with President Johnson after the collision between him and the Radical Congress, proved also to be a moderate. King, the least of the five men, died in 1866.

Annihilation or emigration seems an unrealistically drastic estimate of the Negro problem, either as of 1861 or of 1878, when Crosby was writing. Quite naturally he does not explore the third alternative implicit in his statement, namely, that the Negroes remain in the United States, not as "a distinct race," but as a race in process of assimilation, whether biological, cultural, or both biological and cultural. Crosby's estimate, realistic or unrealistic as the case may be, closely accords with that of President Lincoln, who always drew back at the thought of assimilation between the races, and whose ideas of Negro equality with the whites were limited to certain inalienable human rights. In his annual message to Congress of December 3, 1861, the President urged colonization for such free Negroes as wished it, and for all Negroes emancipated, whether by force of Union arms in the Confederate South or by the hoped-for abolition by law and federal compensation in the loyal border states. On the following August 14, he addressed a committee of free Negroes at the White House. He urged the advantages of racial separation for both whites and blacks, and he spoke quite specifically of Central American colonization, with reference to the Chiriqui district of Panama and its supposed deposits of coal. And again, in the annual message of December 1, 1862, a month before the final Emancipation Proclamation, Lincoln declared for the colonization policy, and said, "I cannot make it better known than it already is that I strongly favor colonization." (John G. Nicolay and John Hay, *Abraham Lincoln, Complete Works* [New York, 1894], II, 102, 222-25, 274). For a historical discussion of Lincoln's efforts, including the actual transportation of four hundred odd Negroes to Haiti in 1863, and the failure of the venture by 1864, see Nicolay and Hay, *Abraham Lincoln, A History* (New York, 1890), VI, chap. xvii. There is an informed, unsigned letter on the subject in the *Nation* (New York), L (Jan. 30, 1890), 91-92. William P. Pickett discusses "Abraham Lincoln's Solution" in *The Negro Problem* (New York, 1909), Bk. II, chap. vii; the whole book is an argument for colonization as the true solution of the Negro problem of the twentieth century. For a Negro scholar's review of the question, see Charles H. Wesley, "Lincoln's Plan for Colonizing the Emancipated Negroes," *Journal of Negro History* (Lancaster and Washington), IV (1919), 7-21.

The printed diplomatic correspondence of 1861 and 1862 confirms Crosby in his statement that the colonization idea met rebuffs everywhere in Central America. Yet the refusals of all five of those states did not become definite until the summer and fall of 1862; and Crosby himself wrote, on May 6 of that year, in terms of the merit of the plan and of his hope that it might succeed (letter to Seward, in *United States Department of State, Papers Relating to Foreign Affairs, 1861-1862* [Washington, 1863], pp. 881-82). One month later, June 6, 1862, Crosby reported to Seward that he had had conversations with the agents of a New York company, and that those gentlemen on return to the United States could supply much information about Guatemala. They were

interested in "introducing free negroes from the United States to be employed upon their works, as well as to open settlements on the adjacent lands which can be secured for a small price." Again, as late as November 21, 1862, Crosby wrote the Secretary of State that conversations with an official of Honduras indicated that that country appeared likely to make a "more satisfactory arrangement" for Negro colonization than any other country in Central America. But by that time all were making official refusals, and Crosby's correspondence on the subject terminated with a letter from Seward, January 19, 1863, which said that the United States would not force colonization, either on the Negroes who might go or on the foreign countries where they might settle. (From passages from unprinted letters in the National Archives, supplied by Mr. Almon R. Wright.) See N. Andrew N. Clevén, "Some Plans for Colonizing Liberated Negro Slaves in Hispanic America," *Journal of Negro History*, XI (1926), 35-49.

Crosby's is the only evidence known to the editor that Lincoln's policy of colonization had a first phase as a way of avoiding or limiting the outbreak of war. This phase necessarily ended with the attack on Sumter. The second phase, which Crosby does not note as such but which is plain in the diplomatic correspondence and in the President's messages, is that of looking for a way out of the social tensions anticipated from emancipation and Union victory, a phase of social policy which Lincoln never quite surrendered. Crosby has this purpose in mind when he speaks of how colonization would have eased the troubles of the Reconstruction period.

For a historical discussion of this controversial matter, see Joseph V. Fuller, "Hamilton Fish," *The American Secretaries of State and their Diplomacy*, ed. Samuel F. Bemis (New York, 1928) VII, 129, 141-47, 161-63.

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The commerce of Guatemala has heretofore been almost wholly absorbed by the English; next Germany and France, and after them the U. S.; whereas in fact it ought to be almost exclusively in the hands of the U. S. The diplomatic and consular system of the United States being so unstable, the frequent changing of the representatives of the country abroad and the sending to foreign countries men ill-qualified to fill the positions in that service, most of them not being able to even speak the language of the country to which they are accredited, and consequently being almost entirely isolated from that familiar intercourse with the people of those countries that would ensure opportunities and advantages for the enlargement of our commercial relations, and the development of new enterprises between our citizens and the citizens of those countries,—have contributed in a very great degree to the lack of American commerce and intercourse with them. There is very little use in sending a man to such a place who is appointed for political service that he may have rendered to some successful member of Congress or U. S. Senator and who is totally disqualified for such position by reason of his not understanding the language, habits and customs of the people he is to live among, and who has perhaps never before travelled out of the limits of his own state and who has no other ambition in representing his country abroad than an easy residence coupled with the emoluments incident to his office. Some of these men live for years in those countries

without having any intercourse whatever with the great mass of the population, and absolutely knowing very little of their habits and customs and the business of the country and after they are superseded by some one equally ignorant and inefficient, they return home without having really accomplished anything more than the saving of whatever they have been able to make out of the emoluments of their office, & so far as the government is concerned have been of no practical utility whatever.

I had considerable leisure time while in Guatemala, and availed myself of the opportunity to travel all over the country. I visited all the Departments, and made myself familiar with the country and became acquainted with all the leading people there, and have the satisfaction of knowing that I had not only the confidence of the President and government of the country but of a large number of influential people throughout the Republic. If the U.S. had been at peace instead of being engaged in struggle for its very existence, I could while there have inaugurated many advantageous arrangements for the extension of commerce with our own country and enterprises in which our citizens could have successfully engaged. There was no telegraph nor railroad in the country and Carrera often told me, in conversation on the subject, that the government were prepared to make very liberal arrangements for the construction of either or both and that he would much prefer to have citizens of the U. S. engage in enterprises of that kind than the French, English or German. Despite all his want of education, he was a man of liberal ideas, and full of enterprise & progress, and it was a cause of very great regret that our country was in such a condition at that time that I could not avail myself of securing American enterprise to engage in some of those things that he was so anxious to have consummated and which would have been so liberally patronized and protected by the government. It is a very mistaken policy on the part of our government to cut down not only the number but the compensation of our representatives in the Spanish American countries to such a limited and parsimonious standard. The English, on the contrary, pursue the very opposite course. That government not only has a full representation as regards numbers, but the representatives are paid sufficient salary to enable them to make proper expenditures for entertaining, for collecting information, & encouraging the establishment and development of

British interests, and for that reason they have the ascendancy in the country, and always will have, as long as they pursue that policy, and other governments pursue the reverse.

There were a few of the ancient nobles who favored the French invasion of Mexico, under the leadership of Maximilian, 94 and I think secretly, to some extent, the Catholic Church favored their success; in fact, I know it did. They even expressed to me, some of them, with whom I was on familiar terms, the fear that the government of the U. S. would be broken up, that is, that there would be a division between the North & South, and that Slavery would be thereby perpetuated in the Southern States; and they had the idea that the Southern people were very aggressive and unscrupulous in the means of acquiring territory, & if such division had taken place they had the apprehension that they would absorb not only Mexico but Central America also, it not being very far distant, and as their power increased also Cuba making the Gulf of Mexico a great inland sea surrounded by a slave empire. I heard the same idea expressed myself by Southern men in Washington during the winter of 60 & 61 as the ultimate outgrowth of their movement for separation. From my intimate relations with Carrera and his prominent advisers, I was enabled to counteract any such apprehension or idea on his part as to the outcome of the Rebellion. He always manifested his faith in the belief that the U. S. Government would maintain its integrity.

Carrera held almost absolute power, and his orders were generally carried out without being questioned, although nominally the President of a Republic. An incident occurred while I was there which pretty well illustrated how absolute his power was. Some dissatisfaction occurred among the officers of the fortress adjoining the city of Guatemala, where he had his arms and ammunition stored, a sort of arsenal, and he was apprehensive that those officers were fomenting a revolt against him; in fact there was some little semblance of mutiny, no doubt. He ordered their arrest, and directed a drum-head Court martial of officers of his own appointment, who condemned these fellows, and they were taken out and shot without ceremony and no questions asked. I remember another little incident to the same effect. During Holy-week, one of the monks, a very eloquent and as the populace said, inspired preacher, was holding forth very violently in the different churches. One Sunday he was 95 preaching in the Cathedral Church and arraigning everybody for their want of observance of their Christian duties, especially in not coming to the confessions and in his

zeal & excitement he used language something like this:—that the people were not responsible to rulers who neglected such religious duties, and they would be justified in hurling them from power and putting those in their place who did observe God's ordinances and the regulations of the Church and came to Mass & Confessional. I suppose that soon after he had made that utterance his language was reported to Carrera—who was nominally the Son of the Church, but not an observer of its forms and ceremonies, and I have my own idea that there lingered in his mind the religious traditions of his race for he never attended the churches or paid any particular attention to their ceremonies & requirements except on state occasions when he would appear in uniform with his military staff, and more, I think, for the display and impression it would have upon the populace, than from any religious sense of duty. On such occasions foreign representatives were invited to be present, as the Spanish say to assist. As soon as the service was over one of Carrera's Aid de Camp met the Holy Father who had been so free in his discourse, at the door of the Sacristy with cap in hand, and true Castilian politeness, and informed him that the President desired to speak to him. The Aid de Camp afterwards related to me what transpired. The Holy Father promptly assented, and said he would be with His Excellency as soon as he could change his robes. In a few moments he was at the Presidents house. He had two or three of his officers with him and his Private Secretary, and as the Friar came in he rose from his seat, advanced to the door to meet him and very graciously received him and motioned him to a seat by his own chair, and opened the conversation by remarking to the Reverend Father that he understood he had been preaching in the churches lately to very crowded audiences, that the people were very much excited and interested, to which the priest replied that he had and he hoped it had had a good effect, a salutary influence. “Well” said Carrera, “but I 96 understand you said so & so” repeating substantially the language he had used in the Cathedral “I understand you used such language in the Cathedral today.” “Yes, your Excellency” said the priest, “but I had no disrespect to you or your authority, and I disclaim any intention of creating a disturbance. It is true I don't see you at Mass or at Confessional.” Carrera has a very piercing twinkle in his eye, and when the friar excused himself in that way, he said “No Father, I dont go to the Mass nor to the Confessional, I have something else to do and I want to say just a few words to you. If I hear of your repeating such language again, I shall send a file of soldiers for you, and take you out behind the Campo Santo, and have you shot.” The good father

had not of course, anything further to say but he excused him-self a little and asked leave to retire, and the President said "Certainly, you can go, I shall always be glad to see you and I should be very sorry to have you repeat any such language, and I hope you will remember what I have said." The good father bowed himself out and two or three days after that was on his way to the coast, and took the next steamer, and disappeared in South America somewhere. The fact was that the Archbishop when he came to know the circumstances quietly sent him out of the country. This Aid de Camp described the scene as so very ludicrous, because of its apparent solemnity and earnestness, and the effect it had upon the priest that it caused the officers many a hearty laugh outside. But Carrera went on, chatting about ordinary affairs, and never alluded to it afterward. That is perhaps as characteristic of the man as any circumstance that I could relate. There were many things that happened though, in that summary way. One of the servants in my house was annoyed by what we would call a pettifogging lawyer, who pretended to have some claim against him and went so far as to threaten imprisonment, unless a certain sum of money was paid. When I came to know of it I had the fellow put out of the house neck and heels unceremoniously, and with the admonition that he would be treated still rougher, if he ever came back again. He was very indignant in his rough manner, and went to the Governor of the City of Guatemala 97 and made a complaint that he had been roughly handled at the house of the American Minister. The Governor told him he had better go and speak with the President about it. The fellow had the insolence to do it, and after Carrera had heard his story he asked him a few questions "They put you out, did they?" "Yes." "Pushed you?" "Yes" "Kicked you?" "Yes" "I think they served you about right, and if I ever hear of your going there to annoy them again, I will have you taken to the Quartel and stripped off, and have a dozen good lashes given to you with the end of a riatta." I mention these little incidents to show how absolute he was. He extended this same manner to things of real importance. He was absolute Dictator of the country, and his orders were law. At the same time he allowed no oppression. He was always mindful of the rights of the common people, especially of the Indians. They would come sometimes in delegations of hundreds from distant provinces to lay their grievances before him, and he would sit patiently and hear all their complaints and have them inquired into, and direct redress and remedies. He had the most perfect control and confidence of all that aboriginal population. I suppose in 48 hours he could have assembled a hundred thousand



of those Indians to his assistance if he had needed them and pretty good fighting men too. It was related of him that when he was first inaugurated President, while he was yet fresh from the ranks of the common Indian people, the Spanish governing class thought to perhaps gradually withdraw from him a little power, or divide it, and they suggested to him that now he was President of the Republic it was proper that he should appoint some military man of experience to command the military forces. He said "That may do very well, but under the circumstances I think I will retain not only the Presidency but the command of the military. It is not necessary to make any such appointment and we will continue just as we are." And any effort to trench upon his absolutism was always met in that quiet but determined way. He was given to occasions of debauchery, was a great lover of women although he had a wife an estimable woman of the Ladina class whom he 98 always respected and maintained in proper dignity and position, a woman of considerable merit mentally and not wanting in personal charms. But he would occasionally break away and go off to some outside place, and have his debauch, carousing with a few boon companions, including soiled angels. It became to be a custom to disregard those things. They were not of very frequent occurrence and when he went off in that quiet way and had his carouse, it came to be understood that that was one of the unavoidable evils and no attention was paid to it, he was allowed to have his indulgence and he would straighten himself up and assume his position again as if nothing had happened. I think his wife acted very sensibly in not trying to make a scene about it. She let the thing pass as one of the inevitables. She had a wonderful influence over him. He deferred to her in all matters of mercy, and it became to be understood that his wife was a very proper channel through which to solicit clemency, and in all matters of that kind he was a good deal guided by her views. In his physiognomy he had all the characteristics of the Indian, was stout, swarthy, rather short of stature, with high cheek-bones, black coarse hair, with a fearfully sharp penetrating eye, like that of a serpent and when he was excited it seemed to fairly blaze with light. On the whole, I dont know but that Guatemala was more prosperous under his administration than it had ever been since its independence up to the time he came into power; and I doubt very much whether it [is] as prosperous now under its present ruler as it was under Carrera.\* When I was there, it was safe to go anywhere in the country and I went all over it, everywhere, wholly unattended except by a single servant. Robberies or outrages were almost wholly unknown. They were of the rarest

occurrence, and I don't know of but one instance while I was there, that a public robbery on the road was committed, and on that occasion, as soon as it was known, Carrera's emissaries were dispatched for the perpetrators, 99 followed them clear up into Mexico, brought them back and they were summarily tried and executed.

Justo Rufino Barrios became president in 1873. He also was a dictator, though "liberal" in name and connection; and he was an unsuccessful promoter of Central American union.

There Legislative Congress is composed of delegates from different Departments who are elected by voters and the conclave of Bishops appoints a certain number of members, and I think the Archbishop has the right to designate a certain number also; and so the ecclesiastical influence in Congress is very considerable and the interests of the church are well represented. It is a state religion, of the country, as much so as it is in Spain. Mr. Crow, an English Baptist minister, was sent out there to enlighten the heathen. He opened with a loud voice there in the Capital, and after a few days began to attract considerable attention, but it created such a tremendous uproar among the common people, that the authorities found it necessary to intervene, and a few days after that he went out of the country on the east side, by way of Lake Isabel, towards British Belize, with half a dozen bayonets behind him. It was so in contravention of law and order and all rights, that, though he appealed to the British Government, they could not sustain him. My attention was called one day to the fact that there was an American nun in one of the convents. I had the curiosity to know if that was true, and if so, whether she was held against her will, and where she came from. On making a little inquiry, I learned that that was the fact, and one of the matrons of the city proposed to go with me to the nunnery and give me an introduction to her. We went to the Church and monastery of Santa Teresa and into the reception room of the convent, and stood at the *reja* an opening in the wall, the size of a large window grated with iron bars, and behind it a thin screen, perhaps two thin screens. The introduction took place at this *reja*, the nun inside, on the other side of the screen, a voice passing without interruption. I found a very very sweet-voiced female answering. She said her name was Sister Adelaide, and that she had been there some twelve years or more. She informed me she was a native of New York, and after I had become better acquainted with her, as I occasionally visited there, I learned her little story of disappointed love, which she had quieted by going to Georgetown & entering the convent and taking the veil. From there she went to Cuba,

and in the retinue of Archbishop Viteri, on his return from Rome, she had been taken to Guatemala, and entered the convent of Santa Teresa where she had been ever since. Some two years or more after my first knowing of her being there, I was very curious to have an interview with her face to face personally, and she expressed the same desire with regard to me. Through the friendship and kindness of the Archbishop, I obtained permission for an interview. Of course it was simply the removal of this veil or curtain behind the grating. On the day appointed for the interview, I was accompanied by two or three of the matrons of the city, and when the veil was removed, I saw a very fair-complexioned, blonde woman, of perhaps 33 or 35, of full medium height, and dressed like the nuns of that order. She conversed very freely. I asked her if she had any disposition to go back to New York, to visit her friends. She said, "What, leave this home?" and burst out laughing immoderately. "No indeed!" she said, "I used to think sometimes, when I first came here, that I would like to go back and see my friends but all the young folks I knew are married and gone away & my father & mother are dead, and I suppose if I were to go back there now, those whom I should see, after the first week or two of curiosity had been gratified, would have no particular affection for Sister Adelaide, any more than for any other new acquaintance they might have made. I have been away so long that all the family endearments & ties of association have disappeared. And on the contrary, I am now the Second Lady in the Convent. I am the Mistress of Novices. Some 12 or 15 of the girls who entered as novices have been educated under my direction; they are my children & I could no more go away and leave them than a mother could abandon her home and children that she dearly loved." She made very merry over the idea of her leaving the Convent. I gathered from my interviews with her, and what I learned of their habits of life, that their imprisonment sat rather lightly upon them. Many 101 of the ladies of the city were in the habit of visiting them, going inside, some remaining there for days together, as they said for religious meditation and instruction. The Convent had large grounds and fine buildings, and she said they had fine gardens inside, and she used to send very elegant bouquets. They had property that brought them income and were well supported; and I am inclined to think she had good reason to make sport of the proposition to leave the place and go to New York.

There is a great misapprehension among our people with regard to those tropical countries. The parts along the ocean where vessels trade, are generally surrounded with more or less swampy and miasmatic jungles, and the vegetation is wonderfully profuse and rank and the exhalations, of course, full of miasmatic poisons and productive of fevers; but this condition is exceptional as to the great breadth of the country. Guatemala is mostly a very mountainous and broken country, and as soon as you leave the coast and begin to rise, even across the coast plain, the drainage is better, and the temperature is a little modified and when you rise on to the upland valleys of the Cordilleras, the temperature is so much modified and the air is so pure and bracing, that the very sense of existence seems to be a delight. There is no healthier country in the world than those uplands. When you get 3000 or even 2500 feet above the level of the sea, the temperature is very much changed and while every thing is luxuriant and tropical that intense and burning heat that we associate with the tropics is unknown. Even on the coast, the temperature never rises so high as in the interior valleys of California, Sacramento & San Joaquin. The impression of the great heat and of the miasmatic and sickly atmosphere of the tropics is very largely obtained from those ports where vessels are trading which are the small exceptions to the real temperature and salubrity of the country at large. If that country were under the U. S. flag, and populated by the Anglo-Saxon race, I cannot imagine a more delightful country to live in than the highlands. There is a plain about 40 miles wide between the coast and the foot of the mountains, known as the 102 Coast Plain, covered by a dense growth of tropical forest and vegetation with occasional clearings that have been made for sugar estates and pasturage for cattle. This coast plain is not very much inhabited; the population is comparatively sparse, until the foot of the mountains is reached where the plain attains the altitude of a thousand feet and along the foot of the great range there are some pretty important towns and villages. After rising three or four thousand feet above the coast plain, the whole country is broken up into intervening valleys & mountains, some of them rising to a very great elevation. The volcano D'Agua and Fuego are notable features in the mountain range, rising to the altitude of between 14000 & 15000 feet, and nearly reaching the temperature of perpetual snow. The latter is in active operation, and I saw one eruption of it while I was there not very violent but wonderfully grand, and accompanied by the disagreeable consequences of a pretty violent series of earthquakes, & while they did not do much damage, they produced very general alarm

and consternation. Some few casualties happened from falling tiles and loosening of walls, but the construction of the houses is so solid, they being built in such manner as to resist the effects of earthquakes, that no very serious damage was done in that respect. The most disastrous result of the earthquake is yet visible in the old City of Guatemala, called the Antigua. In 1773 a succession of earthquakes did such serious damage to public as well as private buildings, that the inhabitants took into serious consideration the propriety of removing to another locality, the result of which was the examination of various points, and the final selection of the site of the present city, the Capital of Guatemala, was determined upon and by royal order of the King of Spain in 1776 the inhabitants were required to change their residence from the earthquake destroyed city to the present city. It was a source of great pleasure to me to visit the Antigua, and I often went over there to spend some days, the distance being about 35 miles from the present city. The climate and surroundings are so enchanting, the very air seems filled with the spirit of poetry. It is said of many of 103 the inhabitants of the old city that when they received the order for removal to the present city, they refused to obey, & that others who did remove were so sad & homesick for the place they had abandoned, that they stealthily returned & in spite of the stringent order, enforced in many cases, with great vigor, the Antigua has always maintained a respectable population; during my residence in the country it was estimated at about 12000. In and around Antigua are some of the finest cochineal plantations, yielding I was told a revenue in prosperous years of 30000 to \$40000. A great variety of delicious tropical fruits are produced in luxuriant abundance. Among them, to my taste, the most delicious is the Anona, the pulp resembling in consistency a rich thick custard, the delicate flavor of the peach, strawberry and other fruits combined. I have often thought how many thousands of our American citizens whose delicate constitutions are ill calculated to bear the rigors of our northern climate, could here enjoy the perfection of climate, so well adapted to their satisfaction and happiness, if they could be surrounded by people of their own nationality and protected by the flag of our Government; and if the U. S. had not been so tardy or indifferent to the acquisition of tropical possessions these things might have been realities. The region of country called the Altos, lying to the northward of the City of Guatemala occupying an elevation of six to ten thousand feet above the level of the sea, embracing the second city of the Republic, Quezaltenango, & the country surrounding it is perhaps as densely populated, or more so, than

any other section, and where they produce wheat, apples, wool and other articles peculiar to the colder countries. A considerable amount of a coarse woollen manufacture, used throughout Central America, is fabricated in the Altos, and mostly by the native Indian race. Their machinery for making this cloth is very primitive & rude.

No very intelligent description can be given of the topography of the country. Perhaps the best illustration was that given by one of the monks of the early days, who was requested to furnish a map for the King of Spain, and who had been applied to because of his personal knowledge of the whole country, gathered from his missionary visits to various parts of it, at different times. In response to this request he took a large sheet of paper, and crushed it up between his hands, and then straightened it out to half its former size, showing elevations and depressions in every conceivable direction, and he said "There is perhaps as correct or a little better description of its topography than I can give in any other way." I am inclined to think that the Padre was correct, for while the tendency of the great range from north to south is pretty well defined, yet it is so broken in every direction with lateral ranges running off on either side, more especially towards the eastward that the formation very much resembles the padre's crumpled sheet of paper.

The ancient ruins or antiquities and remnants of primitive cities are generally found in the higher valleys away from the seacoast and most of them on the eastern side of the great range in various localities extending down to the lowlands of the Atlantic Coast. I was very much interested in visiting many of these ruined cities so graphically described by Stephens in his Central American travels, and his companion, Mr. Catherwood who prepared the illustrations to that celebrated work.\* Many of the incidents he described so glowingly, and sometimes even poetically, I found rather tame, but in the main I regard his descriptions as substantially accurate, and the poetic fervor which appears so often in his pages and which seemed to me was hardly justified by the circumstances which gave rise to it, is no doubt owing to the difference of temperament in the persons visiting these places and the different circumstances or surroundings under which these visits were made. I visited several others which Stephens never saw and by comparing the different peculiarities of their sites and architectural construction and other features one with another, I was

led to the conclusion that they were the creations of different periods of time and perhaps are to be referred to a more remote antiquity than has commonly been ascribed to them. In visiting these very remarkable and interesting ruins with abundant leisure, as I had to observe and study them one could hardly resist even if so inclined, the dreamy listlessness induced by the soft and agreeable climate and in the contemplation of these ancient structures, he could hardly refrain from weaving fanciful theories and indulging in undefined speculations in regard to the people that conceived and founded them, the great length of time that might have been consumed in their development and the still longer time during which they were inhabited by an active and numerous and busy people in a high state of prosperity & then their decadence and final extinction, without leaving a history scarcely a legend behind for the guidance and edification of those who should come after. Who can undertake to measure the long lapse of time between the first settlement of the country and the founding of those once populous and powerful cities and these antiquities that now remain, eloquent as they are of a primeval civilization of a very high order, but of which nothing now is definitely known?

Stephens, *Incidents of Travel in Central America, Chiapas, and Yucatan*.

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### **Appendix: “Anecdotal Scraps”**

IN 1849 a very noted cortezan of San Francisco established herself on the north side of Washington Street opposite the Plaza. There were very few of that class here then. She was among the pioneers in that calling and was known as the “Countess.” She had six or eight young ladies, as they were called. Most of them beautiful girls. Some of them highly accomplished, who came from different parts of the world; nobody knew where. The “Countess” herself was from New Orleans. The peculiar feature of her early career in San Francisco was her receptions. She would issue her cards of invitation for one of her reception nights, beautifully engraved and embossed envelopes, tied with white Satin ribbon like the most dainty wedding card. These were addressed to the most distinguished gentlemen of the Community. Some reference no doubt being had to their liberal sentiments and also their family relations. Those who either had no families or none in the country were especially invited. There were at that time very few females in the country, and female

society of any kind was a variety and a treat. These invitations were generally accepted, and it was astonishing to see with what punctuality and unanimity they were responded to, at the appointed hour. On presenting their cards at the door the gentlemen were admitted and by some means it was understood that a gratuity was to be left with the doorkeeper; generally not less than an ounce and as much more as the liberality of the guest might suggest. Other ladies as they were called were generally invited in from the few demimonde houses then in operation making quite a display of female beauty. The guests were first ushered into the cloak room and dressing room where hats and coats were deposited, and little matters of toilet attended to and then they made their way to the reception room. It was a large frame house two stories high and the parlor was quite a spacious room handsomely furnished. The guests were received with as much politeness and grace as at the 108 most select party in any of the eastern cities, they of course first paying their respects to the “Countess” and then to the other ladies and there was nothing said or done indicating the character of the house or nothing in the entertainment differing from similar entertainments given by the most respectable houses. After that the evening was spent with music and dancing and conversation and everything was conducted with as much decorum, propriety and politeness as in the most select gatherings anywhere. Some of these girls were exquisitely beautiful and very highly accomplished, their conversational powers good and their musical taste and performances were very fine. The gentlemen present were in full dress, with white kid gloves. There was no loud and boistrous mirth nor rude conversation or behavior. At the proper hour they were invited to supper and a very elegant table liberally furnished with delicacies awaited their attention. Usually there were more men at these receptions and it became quite a point of rivalry to secure a lady partner to go in to supper. Champagne was bountifully supplied as well as everything else that was nice. When the music and dancing and whist playing and other diversions known in respectable gatherings had been sufficiently indulged in for the evening and when the hour of leave-taking arrived those who saw proper would depart. To the best of my belief there were a number who remained for private enjoyment of a different character. It was generally understood that on these reception nights everything was to be very proper in character and the deportment of those who attended entirely correct, nothing rude, everything refined and elegant and it was astonishing to see the class of men gather there—executive, legislative, judicial commercial, ministerial all of what are commonly



considered the upper class of society. There were very few men who had brought their families to the state and when these girls appeared in the streets they were treated with the greatest respect and gallantry the same as would be extended to the most respectable women by men in general. This was during the winter of '49-'50. Their regular business must have been profitable; six ounces was the 109 price of a nights entertainment; and those of them who had the sense to take care of their money became very rich.

The first Chinese courtesan who came to San Francisco was Ah Toy. She arrived I think in 1850 and was a very handsome Chinese girl. She was quite select in her associates was liberally patronized by the white men and made a great amount of money.

In the fall of 1849, while I was establishing the election precincts in the Sacramento district up at Coloma, the old site of Sutter's mill, I met a man, rather young from one of the Eastern States, Massachusetts I think, who told me he had been some years with the Mormons, and while he did not belong to them, he had associated with them. He had spent considerable time in the Mountains, trapping and hunting leading an isolated frontier life, stopped for some time at Salt Lake and drifted in to California with the early immigration of '49 and went to the Gold mines. I was remarking to him one day the hideousness of some of those frontier women who made their appearance in California some of them from Pike County Missouri and some of them who were Mormons and had come from the Islands. They were anything but prepossessing and I said to him that I did not see how a man of his education and refinement and apparent taste could affiliate with this class of females. He replied. "If you had been as long isolated from the Eastern States and had associated with that class of women as among the best that could be found and even worse the native Diggers, you would have found attraction in them that might astonish you." That same sentiment that he expressed pervaded, no doubt, the men of California in general. The attraction of the female sex was somewhat a matter of circumstance and surroundings, where men were deprived of intercourse with females they gradually lost their sense of propriety and their earlier appreciation of refined and educated females. When they were not to be found to associate with, they gave themselves up to association with whoever they could find without much regard to appearance or character. The natural attraction of the sex, I think must have had great influence in controlling these men who

sought such 110 female society as could be found. This condition of things continued for a number of years. It took a long time to equalize the population.

I remember that in '49 there was an entertainment given at Sutter's Fort, at which were present a family from Missouri with several daughters, fine buxome looking girls especially the eldest who was named Hannah. There was a crowd of 50 or 60 men and only 5 or 6 girls, who of course received a great deal of attention, and were in great demand as partners for the dance, and they were kept dancing constantly until they were pretty nearly exhausted. They finally stopped to rest awhile when one of the young beaux who was gotten up in good style as to his dress and general appearance and who was not to be put off without a dance with one of the girls, crowded himself into the circle of admirers surrounding the damsels and rather piteously besought Hannah to dance with him. "Well Cap", replied she "I am awful tired but I reckon I will, though I'm in an awful streak of lather." The next day I saw a lot of the boys who had got an old straw bonnet outside of the Fort, which they had picked up somewhere, and had set it up on a stick, and had formed a circle and were performing a war dance round it. It is really wonderful what an influence women have in society, the anxiety of men to have association and companionship with them, making them respectful and gallant towards them whatever their character really may be. Even that old bonnet which they had put up on a stick and were dancing around, I have no doubt called to their mind scenes at home, and had an influence which their external appearance and demeanor would not indicate and the reception parties to which I have referred, also had the same influence, no doubt, notwithstanding the peculiar character of the women who were present at them. I think the women of the demimonde who came here in early days were of the better class; that is, they were women who had fallen from a better sphere than ordinary women of that class, not so much of the rude and vulgar kind.

It was wonderful to see how much attention was paid by the 111 early Californians even to children wherever they saw them anywhere. All the streets of San Francisco in the winter of '49 & '50 as is well known were nothing but channels of mud without paving or planking, and it sometimes became fearful. It was common to make stepping stones across the streets with boxes of plug tobacco as about the cheapest article that could be had for that purpose, and as these boxes would

frequently get displaced, it was a common thing for men to rush out and replace these boxes or lay a piece of board for a lady to cross a street, and if she could not get over otherwise, to take her up very gently and lift her across.

While establishing the election precincts in the Sacramento District, after the first Constitutional Convention I visited an emigrant camp in the forks of the Sacramento and American Rivers and while there I met Judge Ross afterwards a resident of Santa Rosa, and his wife, who with others had just arrived from across the plains. Mrs. Ross had at the time I called there dispatched the Judge over to Sacramento to buy some vegetables, for the purpose of having an old fashioned farmers “boiled dinner” with cabbages, turnips, onions, carrots &c. &c. While I was there the Judge returned and presently Mrs. Ross said to him, “Did you get the vegetables?” “Yes” said the Judge “I got four or five dollars worth” “Mercy!” exclaimed Mrs. Ross “why did you get so many? We never can get through with such a quantity. We shall have to give them away to some of the neighbors; but where are they?” “Oh!” said he “I brought them along.” “Well, but where are they?” said she again “Here they are,” said the Judge, and began to explore in his coat pockets and produced three potatoes from one, two onions from another and two small carrots I think, the whole presenting so meager a collection that Mrs. Ross expressed her indignation that he should have wasted his money that way and suggested that he had better return them if they would take them back. This was their first experience in California prices. The potatoes that we ate at our Fourth of July dinner at the town of Vernon in 1849 112 cost us 60 cents a pound, and were considered remarkably cheap at that, because we bought quite a quantity, some fifty pounds or so. Judge White of San Jose put in a little garden patch of onions that year and said that his crop netted him over \$12000—Most of the vegetables at that time came from Oregon, the Sandwich Island and Mexico.

One of the anomalies of the early judiciary of California was Judge Redman of Santa Clara County, Judge of the County Court at San Jose. He was a man of very little education, rough and ready in his style and a hard drinker. He was utterly arbitrary in his decisions some of which were very peculiar, and were without regard to any known principle of law. I think the phrase “But if the Court knows itself, and the Court thinks it does,” originated with him. I heard him use it constantly, and I never heard it before. Sometimes in adjourning the Court, he would say “If the Court knows

itself, and the Court thinks it does, we will now adjourn the Court for five minutes and the Court will take a drink.”

Judge Almond was a man of superior mind and of very considerable attainments. He seemed to have an intuitive sense of justice that rendered his decisions acceptable because of their fairness and equity. He was very quick in coming to a point. He presided over the Court of First Instance, which would correspond to our District Court. I once heard him say to Mr. Lippitt, a very fine lawyer and a very polished gentleman, who was arguing a case before him. “You are a remarkably fine talker and you know a great deal of law, but the Court has not time to hear you now unless you insist upon it. The Court has decided the case (he hereupon announced the decision), and directs the Clerk to enter the judgement.” This interruption occurred while Lippitt was speaking, trying to sum up the case and present authorities in support of his argument; and the summary decision of the Judge of course put an end to it. He frequently cut the lawyers short in that way, and was disposed to get a[t] the gist of the matter, without listening to elaborate explanations 113 and a protracted presentation of the case. There was a great pressure of business in his Court and he dispatched it very rapidly and his decisions were considered as just to a remarkable degree.

In Judge Blackburn's Court at Santa Cruz a native of the country known to be guilty of numerous crimes was arrested and brought before the Court and tried, and convicted of some very serious offence, murder I think and sentenced by the Judge to be hung. Under the law the record of the trial and condemnation was required to be sent to the Governor for his approval before the execution of the sentence; but the accommodations for prisoners were very poor and the calaboose was in such a delapidated condition Blackburn dared not keep the prisoner in it over night for fear that he might escape; so he ordered the execution at once and the man was taken out and hung forthwith. The next day he sent forward an account of the proceedings for the Governor's approval and stated in a note at the bottom that he had already hung the man, and supposed it would make no difference whether he was hung before the approval or not. There is another story credited to Blackburn, not a very delicate one but characteristic of the man. A vaquerro was on one occasion driving a band of cattle near the town of Santa Cruz and as they were passing a woman was crossing the street and a wild steer started for her, whereupon the vaquerro to prevent the animal's attacking her spurred up his

horse and made a dash to intercept the animal and lasso him, and while doing so the chance was so small, he accidentally knocked the woman down but saved her from being gored and probably saved her life. The woman it seems was *enciente* and this shock caused a premature delivery. The husband of the woman brought suit against the vaquero for damages and during the trial of the case great stress was laid on the loss of the child. Blackburn after considering the case very solemnly gave his decision that the vaquero should put the woman in the same condition as he found her, and the complainant, the husband, should pay the costs of the prosecution. Judge Blackburn had trouble in one of his eyes which caused an involuntary winking which he could not prevent. He was on one occasion invited to a party given by one of the early emigrants with whom he had got acquainted, and when the Judge arrived at the house he was presented by the host to his wife, who welcomed him gracefully; he made one of his best bows, and commenced to converse with the lady, and the husband left them to attend to some other guests. The Judge's eye kept up an incessant winking, which was noticed by the lady who presently became very restive under it and finally when she could stand it no longer, she broke out with, "You scoundrel what do you mean?" and rushed to her husband, and told him how the Judge had kept winking at her, who immediately went to Blackburn and wanted to know what he meant by insulting his wife. The Judge indignantly denied the impeachment and felt so outraged that he was charged with anything of the kind that he made a tremendous onslaught against the other man in words, and threatened to whip him when a lot of Californians gathered round and they at once saw the whole thing and became so convulsed with laughter and made such fun of the matter that an understanding took place, the woman was pacified, and they afterwards became very good friends. Blackburn was a very good hearted man and it is related of him that in many instances he was very kind in relieving persons in distress. He had not much education but had a native sense of justice and right and a large amount of what is termed "horse sense." I think he was a mountaineer and trapper who came here in early days.

Frank Bates was Alcalde at Sutter's Fort during the spring of '49. He was a curious character. Frank's penalty for any petty crime was usually a fine of six to twelve bottles of Byas's ale, according to the gravity of the offense & the necessities of the crowd in attendance. They were worth at that time half an ounce apiece, and six bottles of ale was equivalent to \$48 or \$50. The

penalty was paid on the spot and the ale was brought in and drank by the court and its friends. I have known him to impose this penalty a number of times. Frank ran away from a whaling fleet stopping here on the coast and had been in the 115 country a good many years. He did not preside as Alcalde very long. His decisions were entirely arbitrary.

Leavenworth who was one of the Alcaldes of San Francisco was an ordained Episcopal Clergyman in the State of New York and lived in Williamsburgh. He also studied medicine somewhat. He got an appointment as Surgeon and Chaplain of Stevenson's Regiment and came out with the Regiment in 1847. I don't believe any of the stories that have been told in reference to Leavenworth's dishonesty. I knew him for many years before he came to this coast when he was devoted to his ministry. I think he was rather too conscientious in some of his movements here to suit the times and I think he was forced out of his position as Alcalde by those who could not control him in this direction. He was in position to make an immense fortune but he did not do it which certainly is evidence in his favor. After I arrived here in '49 I was quite intimate with him and I knew very well how he was trying to conduct affairs and I believe he conscientiously endeavored to act for the best interests of the public. He used to complain very much of Annis Merrill and some of his associates that they defrauded him in land matters.

I think the U. S. Supreme Court in many of its decisions of California land matters perpetrated the grossest outrages upon equity and common honesty. Some of its decisions were in utter violation of the Treaty with Mexico and the plainest justice. I think this was in consequence of the clamor of demigogues here in California. I think these decisions were on a par with the Dred Scott decisions which was rendered to comply with the demands of the slave owners. I think we are reaping now the fruits of those inequitable decisions as to the rights of property. The sentiment of agrarianism which is developing now is a natural consequence of the disregard of a high sense of honor & honesty which is plainly apparent in these decisions.\*

Crosby was writing these *Reminiscences* in the same year, 1878, as Henry George employed for the bulk of the work on *Progress and Poverty*, which is a very California-minded study as well as a universal inquiry into the causes and cure of poverty in the industrial age. This was the year also of the meeting of California's second constitutional convention, which produced the Constitution of 1879 and its none-too-successful attempt to equalize taxation and otherwise to ameliorate the economic and social tensions of the state.

The proceedings of the California Courts in '49 prior to the organization of the State Government were rather uncertain and anomalous owing to the want of knowledge of the Spanish law and the decisions are hardly to be considered as proper judicial decisions. The fact is that the application of the common law in deciding cases was made in direct violation of the old Spanish law. The Spanish Civil Law was so little known that the proceedings were not conducted under its provisions. Not many of the old Spanish officers were retained, a few in some of the southern counties. In fact there was very little law of any kind, very few courts and very little proceedings during the first year of the immigration to California. The first vessel arrived in 1849 and in December of that year we organized the Supreme Court under the State organization.

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